INTERNATIONAL COURT OF JUSTICE

Yearbook
1992-1993

No. 47

I.C.J. - THE HAGUE - 1993

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In March 1947 the International Court of Justice instructed the Registrar to publish a *Yearbook* providing general information concerning its organization, jurisdiction, activities and administration.

The *Yearbook* appears in the second half of each year. The present volume – forty-seventh of the series – covers the period from 1 August 1992 to 31 July 1993.

The *Yearbook* is prepared by the Registry and in no way involves the responsibility of the Court; in particular, the summaries of judgments, advisory opinions and orders contained in Chapter VI cannot be quoted against the actual texts of those judgments, advisory opinions and orders and do not constitute an interpretation of them.

Eduardo VALENCIA-OSPINA,
Registrar of the Court.

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INTRODUCTION

The *International Court of Justice*, which has its seat in The Hague, is the principal judicial organ of the United Nations.

It had as its predecessor the *Permanent Court of International Justice*, which was instituted by the League of Nations in 1920 and was dissolved in 1946.

I. Basic Texts

The constitutional texts of the Court are the Charter of the United Nations and the Statute of the Court. Other basic texts are the Rules of Court and the resolution concerning the internal judicial practice of the Court.

1. Charter of the United Nations

The International Court of Justice was brought into being by the Charter of the United Nations, signed at San Francisco on 26 June 1945. The Charter deals with the Court in Article 7, paragraph 1, Article 36, paragraph 3, and Articles 92-96, which form Chapter XIV.

2. Statute of the International Court of Justice

(a) *Text of the Statute*

By virtue of Article 92 of the Charter of the United Nations, the Statute of the Court is annexed to the Charter, of which it forms an integral part. The text of the Statute, which also was signed at San Francisco on 26 June 1945, is published by the Court in the volume *I.C.J. Acts and Documents No. 5*, pages 60-89.

The above-mentioned Article indicates that the Statute is based upon that of the *Permanent Court of International Justice*. The modifications are few in number, most of them being formal adaptations designed to take account of the replacement of the League of Nations by the United Nations. The *I.C.J. Yearbook 1946-1947*, pages 101-102, gives a list of the articles modified.

(b) *States parties to the Statute*

Article 93 of the Charter provides:

> "1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.
>
> 2. A State which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice

on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council."

The States parties to the Statute are listed in Chapter III, pages 55-61, of this *Yearbook*.

(c) *Amendments to the Statute*

According to Article 69 of the Statute, amendments to that instrument may be effected by the same procedure as is provided for amendments to the Charter. This procedure is set out in Chapter XVIII of the Charter (Arts. 108-109). Article 108 provides that amendments to the Charter "shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council".

Article 69 of the Statute also specifies that provisions concerning the participation in the amendment procedure of States which are parties to the Statute but are not members of the United Nations may be adopted by the General Assembly upon recommendation of the Security Council (see Chap. III, pp. 60-61, below).

Furthermore, Article 70 of the Statute empowers the Court to propose of its own accord such amendments to the Statute as it may deem necessary.

No amendments have so far been made to the Statute.

3. *Rules of Court*

Article 30 of the Statute provides that "the Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure."

Rules of Court were adopted on 6 May 1946, and were published by the Court in the volume *I.C.J. Acts and Documents No. 1*, second edition, pages 54-83. They were based on the latest text of the Rules of the *Permanent Court*, that of 11 March 1936, with certain changes, formal and substantive, a list of which was given in *I.C.J. Yearbook 1946-1947*, pages 102-103.

From 1946 to 1972 the Rules remained unchanged, although from time to time the Court, which keeps its procedure under constant review, considered their modification. In 1967 a revision was undertaken (see *I.C.J. Yearbook 1967-1968*, p. 87; *I.C.J. Yearbook 1969-1970*, p. 114; *I.C.J. Yearbook 1970-1971*, pp. 109-110) and on 10 May 1972 the Court adopted some partial amendments of immediate interest. Amended and partly renumbered Rules of Court (see *I.C.J. Acts and Documents No. 3*, pp. 92-149) thus came into force on 1 September 1972. A Note by the Registry (*Background Note IV*, or see *I.C.J. Yearbook 1971-1972*, pp. 3-11) indicates the changes and gives a table of concordance between the 1946 Rules and those of 1972.

The work of revision was subsequently resumed, and culminated on 14 April 1978 in the adoption of a new set of Rules. These Rules of Court came into force on 1 July 1978 and as from that date replaced the 1972 amended version of those adopted in 1946. They were first published in *I.C.J. Acts and Documents No. 4* concurrently with the issue of *I.C.J. Background Note V*, entitled "Note by the Registry on the Revised Rules of Court (1978)", which includes a table of concordance as between the respective articles of the new set and its predecessor. For a rather more detailed account of the background the reader is referred to pages 111-119 of *I.C.J. Yearbook 1977-1978*, which feature an analytical table enabling the structure of the new set of Rules to be compared with that of the 1946 and 1972 sets, and a table of concordance as between the specific articles of the 1978, 1972 and 1946 Rules of Court. The current publication containing the 1978 Rules of Court is *I.C.J. Acts and Documents No. 5* (pp. 92-161).

II. CHRONOLOGICAL SURVEY

The Charter of the United Nations and the Statute of the Court entered into force on 24 October 1945.

After the election of its Members, on 6 February 1946, the Court met for the first time in The Hague on 1 April of the same year.

The first case entered in the General List of the Court *(Corfu Channel (United Kingdom* v. *Albania))* was submitted on 22 May 1947.

Between then and 31 July 1993 the Court has had to deal with a total of 91 cases, i.e., 71 contentious cases and 20 advisory cases, as listed below[1]. In those cases it gave 56 judgments, of which 38 were on the merits, and 21 advisory opinions. Of the 271 orders made therein, 210 related solely to the fixing or extending of time-limits, while 242 orders related to contentious cases and 29 to advisory cases.

Title	*Dates*
(a) Contentious[2]	
Corfu Channel (United Kingdom v. *Albania)*	1947-1949
Fisheries (United Kingdom v. *Norway)*	1949-1951
Protection of French Nationals and Protected Persons in Egypt (France v. *Egypt)*	1949-1950
Asylum (Colombia/Peru)	1949-1950
Rights of Nationals of the United States of America in Morocco (France v. *United States of America)*	1950-1952

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[1] Factual information (dates, etc.) regarding the course of the proceedings in each case is given in *Background Notes II* and *II bis: Synopsis of cases referred to the International Court of Justice* (see p. 138, below).

[2] In the case of proceedings instituted by means of a special agreement the names of the parties are separated by an oblique stroke.

Title	*Dates*
Request for Interpretation of the Judgment of 20 November 1950 in the Asylum case (Colombia v. *Peru)*	1950
Haya de la Torre (Colombia v. *Peru)*	1950-1951
Ambatielos (Greece v. *United Kingdom)*	1951-1953
Anglo-Iranian Oil Co. (United Kingdom v. *Iran)*	1951-1952
Minquiers and Ecrehos (France/United Kingdom)	1951-1953
Nottebohm (Liechtenstein v. *Guatemala)*	1951-1955
Monetary Gold Removed from Rome in 1943 (Italy v. *France, United Kingdom and United States of America)*	1953-1954
Electricité de Beyrouth Company (France v. *Lebanon)*	1953-1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *Hungary)*	1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *USSR)*	1954
Aerial Incident of 10 March 1953 (United States of America v. *Czechoslovakia)*	1955-1956
Antarctica (United Kingdom v. *Argentina)*	1955-1956
Antarctica (United Kingdom v. *Chile)*	1955-1956
Aerial Incident of 7 October 1952 (United States of America v. *USSR)*	1955-1956
Certain Norwegian Loans (France v. *Norway)*	1955-1957
Right of Passage over Indian Territory (Portugal v. *India)*	1955-1960
Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. *Sweden)*	1957-1958
Interhandel (Switzerland v. *United States of America)*	1957-1959
Aerial Incident of 27 July 1955 (Israel v. *Bulgaria)*	1957-1959
Aerial Incident of 27 July 1955 (United States of America v. *Bulgaria)*	1957-1960
Aerial Incident of 27 July 1955 (United Kingdom v. *Bulgaria)*	1957-1959
Sovereignty over Certain Frontier Land (Belgium/Netherlands)	1957-1959
Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. *Nicaragua)*	1958-1960
Aerial Incident of 4 September 1954 (United States of America v. *USSR)*	1958
Barcelona Traction, Light and Power Company, Limited (Belgium v. *Spain)*	1958-1961

Title	*Dates*
Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. *Lebanon)*	1959-1960
Aerial Incident of 7 November 1954 (United States of America v. *USSR)*	1959
Temple of Preah Vihear (Cambodia v. *Thailand)*	1959-1962
South West Africa (Ethiopia v. *South Africa; Liberia* v. *South Africa)*	1960-1966
Northern Cameroons (Cameroon v. *United Kingdom)*	1961-1963
Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. *Spain)*	1962-1970
North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)	1967-1969
Appeal Relating to the Jurisdiction of the ICAO Council (India v. *Pakistan)*	1971-1972
Fisheries Jurisdiction (United Kingdom v. *Iceland)*	1972-1974
Fisheries Jurisdiction (Federal Republic of Germany v. *Iceland)*	1972-1974
Nuclear Tests (Australia v. *France)*	1973-1974
Nuclear Tests (New Zealand v. *France)*	1973-1974
Trial of Pakistani Prisoners of War (Pakistan v. *India)*	1973
Aegean Sea Continental Shelf (Greece v. *Turkey)*	1976-1978
Continental Shelf (Tunisia/Libyan Arab Jamahiriya)	1978-1982
United States Diplomatic and Consular Staff in Tehran (United States of America v. *Iran)*	1979-1981
Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) [case referred to a Chamber]	1981-1984
Continental Shelf (Libyan Arab Jamahiriya/Malta)	1982-1985
Frontier Dispute (Burkina Faso/Republic of Mali) [case referred to a Chamber]	1983-1986
Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. *United States of America)*	1984-1991
Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia* v. *Libyan Arab Jamahiriya)*	1984-1985
Border and Transborder Armed Actions (Nicaragua v. *Costa Rica)*	1986-1987
Border and Transborder Armed Actions (Nicaragua v. *Honduras)*	1986-1992

Title	*Dates*
Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) [case referred to a Chamber][1]	1986-1992
Elettronica Sicula S.p.A. (ELSI) (United States of America v. *Italy)* [case referred to a Chamber]	1987-1989
Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. *Norway)*	1988-1993
Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. *United States of America)*	1989-
Certain Phosphate Lands in Nauru (Nauru v. *Australia)*	1989-
Arbitral Award of 31 July 1989 (Guinea-Bissau v. *Senegal)*	1989-1991
Territorial Dispute (Libyan Arab Jamahiriya/Chad)	1990-
East Timor (Portugal v. *Australia)*	1991-
Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. *Senegal)*	1991-
Passage through the Great Belt (Finland v. *Denmark)*	1991-1992
Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain)*	1991-
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)*	1992-
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United States of America)*	1992-
Oil Platforms (Islamic Republic of Iran v. *United States of America)*	1992-
Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia (Serbia and Montenegro))*	1993-
Gabčíkovo-Nagymaros Project (Hungary/Slovakia)	1993-
(b) Advisory	
Conditions of Admission of a State to Membership in the United Nations (Article 4 of Charter)	1947-1948
Reparation for Injuries Suffered in the Service of the United Nations	1948-1949
Interpretation of Peace Treaties with Bulgaria, Hungary and Romania	1949-1950

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[1] The intervention of Nicaragua was admitted on 13 September 1990 (see *I.C.J. Yearbook 1990-1991*, pp. 160-174).

Title	*Dates*
Competence of the General Assembly for the Admission of a State to the United Nations	1949-1950
International Status of South West Africa	1949-1950
Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide	1950-1951
Effect of Awards of Compensation Made by the United Nations Administrative Tribunal	1953-1954
Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa	1954-1955
Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco	1955-1956
Admissibility of Hearings of Petitioners by the Committee on South West Africa	1955-1956
Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization	1959-1960
Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)	1961-1962
Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)	1970-1971
Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal	1972-1973
Western Sahara	1974-1975
Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt	1980
Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal	1981-1982
Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal	1984-1987
Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947	1988
Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations	1989

CHAPTER I

ORGANIZATION OF THE COURT

The organization of the International Court of Justice is governed by Articles 2-33 of the Statute of the Court and by Articles 1-18 and 32-37 of the Rules of Court.

I. MEMBERS OF THE COURT

1. Composition of the Court[1]

The Court consists of 15 Members (Statute, Art. 3, para. 1).

On 31 July 1993 the composition of the Court was as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President Sir Robert Jennings	United Kingdom	5 February 2000[2]
Vice-President S. Oda	Japan	5 February 1994[2]
Judges R. Ago	Italy	5 February 1997
S. M. Schwebel	United States	5 February 1997
M. Bedjaoui	Algeria	5 February 1997
Ni Zhengyu	China	5 February 1994
J. Evensen	Norway	5 February 1994
N. K. Tarassov	Russian Federation	5 February 1997
G. Guillaume	France	5 February 2000
M. Shahabuddeen	Guyana	5 February 1997
A. Aguilar Mawdsley	Venezuela	5 February 2000
C. G. Weeramantry	Sri Lanka	5 February 2000
R. Ranjeva	Madagascar	5 February 2000
B. A. Ajibola	Nigeria	5 February 1994
G. Herczegh[3]	Hungary	5 February 1994

The Members of the Court are elected for nine years, one-third of the total number of judges being elected every three years; they may be re-elected (Statute, Art. 13). In the event of a vacancy, an election is held and the new judge holds office for the remainder of his predecessor's term (Statute, Arts. 14 and 15). Though replaced, Members of the Court finish any cases they have begun (Statute, Art. 13, para. 3).

---

[1] For the composition of chambers, see pp. 17-18, below.

[2] The terms of office of Judges Sir Robert Jennings and Oda as President and Vice-President respectively expire in 1994.

[3] Judge Herczegh was elected to fill the vacancy caused by the death, on 14 January 1993, of Judge Lachs (see p. 10, below).

As required by Article 7 of the Statute, the Secretary-General of the United Nations prepares for each election a list of the persons nominated in accordance with Articles 5 and 6. The election is held by the General Assembly and the Security Council of the United Nations, proceeding independently of each other and simultaneously (Statute, Arts. 8-12). The States parties to the Statute of the Court which are not members of the United Nations take part in the election by the General Assembly in the same manner as Members of the United Nations (General Assembly resolution 264 (III) of 8 October 1948; see Chap. III, p. 60, below).

Members of the Court elected during the same session of the General Assembly whose terms of office begin on the same date take precedence according to seniority of age; Members elected at a previous session take precedence; in the event of immediate re-election a Member retains his former precedence (Rules, Art. 3, paras. 2-4).

The Court elects its President and Vice-President; they are both elected for three years and take precedence over the other judges (Statute, Art. 21, para. 1; Rules, Art. 3, para. 5, Arts. 10-14, Art. 18, para. 2, and Art. 32).

2. Changes in the Composition of the Court in 1992-1993

On 14 January 1993, Judge M. Lachs, who had been a Member of the Court since 1967 and its President from 1973 to 1976, died.

On 10 May 1993, the General Assembly and the Security Council of the United Nations elected Mr. Géza Herczegh to fill the resulting vacancy. His term of office thus extends to 5 February 1994.

The other candidate was Mr. Krzysztof Skubiszewski.

3. Former Presidents and Vice-Presidents and Former Members of the Court

The following judges served as President or Vice-President before the present holders of those offices:

1946-1949, J. G. Guerrero and J. Basdevant;
1949-1952, J. Basdevant and J. G. Guerrero[1];
1952-1955, Sir Arnold McNair and J. G. Guerrero[1];

---

[1] While he was Vice-President of the Court, Judge Guerrero acted as President, by virtue of Article 13, paragraphs 1 and 2, of the 1946 Rules, in the following cases: *Corfu Channel (United Kingdom* v. *Albania); Protection of French Nationals and Protected Persons in Egypt (France* v. *Egypt); Rights of Nationals of the United States of America in Morocco (France* v. *United States of America); Ambatielos (Greece* v. *United Kingdom); Anglo-Iranian Oil Co. (United Kingdom* v. *Iran); Minquiers and Ecrehos (France/United Kingdom); Monetary Gold Removed from Rome in 1943 (Italy* v. *France, United Kingdom and United States of America).*

1955-1958, G. H. Hackworth and A. H. Badawi[1];
1958-1961, H. Klaestad and Sir Muhammad Zafrulla Khan;
1961-1964, B. Winiarski and R. J. Alfaro;
1964-1967, Sir Percy Spender and V. K. Wellington Koo;
1967-1970, J. L. Bustamante y Rivero and V. M. Koretsky;
1970-1973, Sir Muhammad Zafrulla Khan and F. Ammoun[2];
1973-1976, M. Lachs and F. Ammoun[2];
1976-1979, E. Jiménez de Aréchaga and Nagendra Singh;
1979-1982, Sir Humphrey Waldock[3] and T. O. Elias[4];
1982-1985, T. O. Elias[5] and J. Sette-Camara;
1985-1988, Nagendra Singh and G. Ladreit de Lacharrière[6];
1988-1991, J. M. Ruda and K. Mbaye.

Apart from the present judges, the following have been Members of the Court (the names of those who have died are preceded by an asterisk):

	Country	*Period of Office*
* R. J. Alfaro	Panama	1959-1964
* A. Alvarez	Chile	1946-1955
* F. Ammoun	Lebanon	1965-1976
* E. C. Armand-Ugon	Uruguay	1952-1961
* Ph. Azevedo	Brazil	1946-1951
* A. H. Badawi	Egypt	1946-1965
* J. Basdevant	France	1946-1964

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[1] While he was Vice-President of the Court, Judge Badawi acted as President, by virtue of Article 13, paragraph 1, of the 1946 Rules, in the cases concerning *Interhandel (Switzerland v. United States of America), Interim Protection*, and *Aerial Incident of 27 July 1955 (United States of America v. Bulgaria)*.

[2] While he was Vice-President of the Court, Judge Ammoun acted as President, by virtue of Article 11 and Article 13, paragraph 1, of the then Rules of Court, in *Appeal Relating to the Jurisdiction of the ICAO Council, Nuclear Tests (Australia v. France), Interim Protection*, and *Nuclear Tests (New Zealand v. France), Interim Protection*.

[3] Sir Humphrey Waldock died on 15 August 1981. The functions of the Presidency were thereafter exercised by T. O. Elias as Acting President, by virtue of Article 13, paragraph 1, and Article 14 of the 1978 Rules of Court.

[4] Vice-President Elias was for a time Acting President in *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and in the proceedings relating to the Orders made on 20 January and 1 February 1982 in *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*.

[5] Judge Elias continued to act as President in *Continental Shelf (Libyan Arab Jamahiriya/Malta)* after 5 February 1985, by virtue of Article 32, paragraph 2, of the 1978 Rules of Court.

[6] Judge Ladreit de Lacharrière died on 10 March 1987. On 6 May 1987 the Court elected Judge Mbaye to be its Vice-President for the remainder of his predecessor's term.

* R. R. Baxter	United States	1979-1980
* C. Bengzon	Philippines	1967-1976
* J. L. Bustamante y Rivero	Peru	1961-1970
* L. F. Carneiro	Brazil	1951-1955
* F. de Castro	Spain	1970-1979
* R. Córdova	Mexico	1955-1964
* Ch. De Visscher	Belgium	1946-1952
* H. C. Dillard	United States	1970-1979
* A. El-Erian	Egypt	1979-1981
A. El-Khani	Syria	1981-1985
* T. O. Elias	Nigeria	1976-1991
* I. Fabela	Mexico	1946-1952
* Sir Gerald Fitzmaurice	United Kingdom	1960-1973
* I. Forster	Senegal	1964-1982
* S. A. Golunsky	USSR	1952-1953
A. Gros	France	1964-1984
* J. G. Guerrero	El Salvador	1946-1958
* G. H. Hackworth	United States	1946-1961
* Hsu Mo	China	1946-1956
* L. Ignacio-Pinto	Benin	1970-1979
* P. C. Jessup	United States	1961-1970
E. Jiménez de Aréchaga	Uruguay	1970-1979
* H. Klaestad	Norway	1946-1961
F. I. Kojevnikov	USSR	1953-1961
* V. M. Koretsky	USSR	1961-1970
* S. B. Krylov	USSR	1946-1952
* M. Lachs	Poland	1967-1993
* G. Ladreit de Lacharrière	France	1982-1987
* Sir Hersch Lauterpacht	United Kingdom	1955-1960
* Sir Arnold McNair	United Kingdom	1946-1955
K. Mbaye	Senegal	1982-1991
* G. Morelli	Italy	1961-1970
* L. M. Moreno Quintana	Argentina	1955-1964
* P. D. Morozov	USSR	1970-1985
H. Mosler	Federal Republic of Germany	1976-1985
* Nagendra Singh	India	1973-1988

C. D. Onyeama	Nigeria	1967-1976
* L. Padilla Nervo	Mexico	1964-1973
R. S. Pathak	India	1989-1991
* S. Petrén	Sweden	1967-1976
* Sir Benegal Rau	India	1952-1953
* J. E. Read	Canada	1946-1958
J. M. Ruda	Argentina	1973-1991
J. Sette-Camara[1]	Brazil	1979-1988
* Sir Percy C. Spender	Australia	1958-1967
* J. Spiropoulos	Greece	1958-1967
* K. Tanaka	Japan	1961-1970
* S. Tarazi	Syria	1976-1980
* Sir Humphrey Waldock	United Kingdom	1973-1981
* V. K. Wellington Koo	China	1957-1967
* B. Winiarski	Poland	1946-1967
* Sir Muhammad Zafrulla Khan	Pakistan	1954-1961 and 1964-1973
* M. Zoričić	Yugoslavia	1946-1958

II. JUDGES *AD HOC*

If in a case the Court, or a chamber of the Court, includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge; similarly, if the Court or the chamber includes upon the Bench no judge of the nationality of the parties, each of these parties may choose a judge (Statute, Art. 31; Rules, Arts. 7-8, Art. 17, para. 2, Arts. 35-37, Art. 91, para. 2, and Art. 102, para. 3). Should there be several parties in the same interest they are reckoned for this purpose as one party only (Statute, Art. 31, para. 5; Rules, Art. 36 and Art. 37, para. 2).

Since the institution of the Court, judges *ad hoc* have been chosen in the following cases (unless otherwise indicated, they held the nationality of the appointing party):

Corfu Channel (United Kingdom v. *Albania)*. Albania chose Mr. I. Daxner (Czechoslovakia), who sat upon the Bench when the preliminary objection was heard, and Mr. B. Ečer (Czechoslovakia), who sat when the case was heard on the merits and also for the assessment of amount of compensation.

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[1] In accordance with Article 13, paragraph 3, of the Statute and Article 17, paragraph 4, of the Rules of Court, Judge Sette-Camara continued to sit as President of the Chamber in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*.

Asylum (Colombia/Peru), Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. *Peru)* and *Haya de la Torre (Colombia* v. *Peru)*. Mr. J. J. Caicedo Castilla was chosen by Colombia and Mr. L. Alayza y Paz Soldán by Peru.

Ambatielos (Greece v. *United Kingdom)*. Mr. J. Spiropoulos was chosen by Greece.

Anglo-Iranian Oil Co. (United Kingdom v. *Iran)*. Mr. K. Sandjabi was chosen by Iran.

Nottebohm (Liechtenstein v. *Guatemala)*. Mr. C. García Bauer[1] was chosen by Guatemala and Mr. P. Guggenheim (Switzerland) by Liechtenstein.

Monetary Gold Removed from Rome in 1943 (Italy v. *France, United Kingdom and United States of America)*. Mr. G. Morelli was chosen by Italy.

Right of Passage over Indian Territory (Portugal v. *India)*. Mr. M. Fernandes was chosen by Portugal and the Hon. M. A. C. Chagla by India.

Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. *Sweden)*. Mr. J. Offerhaus was chosen by the Netherlands and Mr. F. J. C. Sterzel by Sweden.

Interhandel (Switzerland v. *United States of America)*. Mr. P. Carry was chosen by Switzerland.

Aerial Incident of 27 July 1955 (Israel v. *Bulgaria)*. Mr. Justice Goitein was chosen by Israel and Mr. J. Žourek (Czechoslovakia) by Bulgaria.

Aerial Incident of 27 July 1955 (United States of America v. *Bulgaria)*[2]. Mr. J. Žourek (Czechoslovakia) was chosen by Bulgaria.

Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. *Nicaragua)*. Mr. R. Ago (Italy) was chosen by Honduras and Mr. F. Urrutia Holguín (Colombia) by Nicaragua.

Barcelona Traction, Light and Power Company, Limited (Belgium v. *Spain)*[2]. Mr. W. J. Ganshof van der Meersch was chosen by Belgium and Mr. F. de Castro by Spain.

South West Africa (Ethiopia v. *South Africa; Liberia* v. *South Africa)*. Sir Louis Mbanefo (Nigeria)[3] was chosen by Ethiopia and Liberia and the Hon. J. T. van Wyk by South Africa.

Northern Cameroons (Cameroon v. *United Kingdom)*. Mr. P. Beb a Don was chosen by Cameroon.

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[1] The Government of Guatemala had first chosen as judge *ad hoc* Mr. J. C. Herrera and subsequently Mr. J. Matos, before choosing Mr. García Bauer.

[2] Case removed from the list before the Court had occasion to sit.

[3] The Governments of Ethiopia and Liberia had first chosen as judge *ad hoc* the Hon. J. Chesson, subsequently Sir Muhammad Zafrulla Khan and then Sir Adetokunboh A. Ademola, before choosing Sir Louis Mbanefo.

Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. *Spain)*. Belgium chose Mr. W. J. Ganshof van der Meersch, who sat upon the Bench when the preliminary objections were heard, and Mr. W. Riphagen (Netherlands), who sat in the second phase. Spain chose Mr. E. C. Armand-Ugon (Uruguay).

North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands). Mr. H. Mosler was chosen by the Federal Republic of Germany and Mr. M. Sørensen (Denmark) by Denmark and the Netherlands.

Appeal Relating to the Jurisdiction of the ICAO Council (India v. *Pakistan)*. Mr. Nagendra Singh was chosen by India.

Nuclear Tests (Australia v. *France)*. Sir Garfield Barwick was chosen by Australia.

Nuclear Tests (New Zealand v. *France)*. Sir Garfield Barwick (Australia) was chosen by New Zealand.

Trial of Pakistani Prisoners of War (Pakistan v. *India)*. Pakistan chose Sir Muhammad Zafrulla Khan, who sat in the proceedings on the request for interim measures up to 2 July 1973, and Mr. Muhammad Yaqub Ali Khan[1].

Western Sahara. Mr. A. Boni (Ivory Coast) was chosen by Morocco.

Aegean Sea Continental Shelf (Greece v. *Turkey)*. Mr. M. Stassinopoulos was chosen by Greece.

Continental Shelf (Tunisia/Libyan Arab Jamahiriya). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya and Mr. J. Evensen (Norway) by Tunisia.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) (case referred to a Chamber). Mr. M. Cohen was chosen by Canada.

Continental Shelf (Libyan Arab Jamahiriya/Malta). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya. Mr. J. Castañeda (Mexico) was chosen by Malta and sat in the proceedings culminating in the Judgment on Italy's application for permission to intervene. Mr. N. Valticos (Greece) was chosen by Malta to sit when the case was heard on the merits.

Frontier Dispute (Burkina Faso/Republic of Mali) (case referred to a Chamber). Mr. F. Luchaire (France) was chosen by Burkina Faso and Mr. G. Abi-Saab (Egypt) by the Republic of Mali.

Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. *United States of America)*. Mr. C.-A. Colliard (France) was chosen by Nicaragua.

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[1] This case was removed from the list before the Court had occasion to hear argument on the question of its jurisdiction.

Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia* v. *Libyan Arab Jamahiriya)*. Mrs. S. Bastid (France) was chosen by Tunisia and Mr. E. Jiménez de Aréchaga (Uruguay) by the Libyan Arab Jamahiriya.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (case referred to a Chamber). Mr. N. Valticos (Greece) was chosen by El Salvador and Mr. M. Virally (France) was chosen by Honduras. Following the death of Mr. Virally, Mr. S. Torres Bernárdez (Spain) was chosen by Honduras.

Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. *Norway)*. Mr. P. H. Fischer was chosen by Denmark.

Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. *United States of America)*. Mr. M. Aghahosseini has been chosen by the Islamic Republic of Iran.

Arbitral Award of 31 July 1989 (Guinea-Bissau v. *Senegal)*. Mr. H. Thierry (France) was chosen by Guinea-Bissau. Following the expiry of Judge Mbaye's term of office on 5 February 1991 Senegal no longer had a judge of its nationality on the bench. It therefore chose Mr. K. Mbaye to sit as judge *ad hoc*.

Territorial Dispute (Libyan Arab Jamahiriya/Chad). Mr. J. Sette-Camara (Brazil) has been chosen by the Libyan Arab Jamahiriya and Mr. G. M. Abi-Saab (Egypt) by Chad.

East Timor (Portugal v. *Australia)*. Mr. A. de Arruda Ferrer-Correia has been chosen by Portugal and Sir Ninian Stephen by Australia.

Passage through the Great Belt (Finland v. *Denmark)*. Mr. B. Broms was chosen by Finland and Mr. P. H. Fischer by Denmark.

Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain)*. Mr. J. M. Ruda (Argentina) has been chosen by Qatar and Mr. N. Valticos (Greece) by Bahrain.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)*. Mr. A. S. El-Kosheri (Egypt) has been chosen by the Libyan Arab Jamahiriya.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United States of America)*. Mr. A. S. El-Kosheri (Egypt) has been chosen by the Libyan Arab Jamahiriya.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia (Serbia and Montenegro))*. Mr. E. Lauterpacht (United Kingdom) has been chosen by Bosnia and Herzegovina.

III. CHAMBERS

1. Chamber of Summary Procedure

The Statute (Art. 29) provides that, with a view to the speedy despatch of business, the Court shall form annually a Chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. The Court also selects two judges for this Chamber for the purpose of replacing judges who find it impossible to sit. Under Article 15 of the Rules of Court, the President and Vice-President are members of this Chamber ex officio, the other members and the substitutes being elected. The Chamber of Summary Procedure has never as yet been called upon to meet.

The Chamber of Summary Procedure is composed as follows: President Sir Robert Jennings; Vice-President Oda; Judges Schwebel, Ni and Evensen, members; Judges Tarassov and Aguilar Mawdsley, substitute members.

2. Chambers Provided for in Article 26, Paragraph 1, of the Statute

The Statute (Art. 26, para. 1) provides also that the Court may from time to time form one or more chambers, composed of three or more judges, as the Court may determine, for dealing with particular categories of cases: for example, labour cases and cases relating to transit and communications. Cases are heard and determined by these chambers if the parties so request.

In the past the Court has considered the question of the possible formation of a chamber to deal with environmental matters. On those occasions it took the view that it was not yet necessary to set up a standing special chamber, emphasizing that it was able to respond rapidly to requests for the constitution of a so-called *"ad hoc"* chamber (pursuant to Article 26, paragraph 2, of the Statute) which could deal also with any environmental case.

In view of the developments in the field of environmental law and protection which have taken place in the last few years, and considering that it should be prepared to the fullest possible extent to deal with any environmental case falling within its jurisdiction, the Court has now deemed it appropriate to establish a seven-member Chamber for Environmental Matters composed as follows: Judges Schwebel, Bedjaoui, Evensen, Shahabuddeen, Weeramantry, Ranjeva and Herczegh.

The members of the Chamber, who have been elected by secret ballot, will serve for an initial period of six months and will enter upon their duties on 6 August 1993.

3. Chambers Formed under Article 26, Paragraph 2, of the Statute

The Statute (Art. 26, para. 2) provides that the Court may form a chamber for dealing with a particular case, the number of judges constituting such a chamber being determined by the Court with the approval of the parties.

Chambers of this kind have been formed at the joint request of the parties to deal with four cases. They are listed below with an indication of the date on which the respective Chamber was constituted and the names of its members.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America): constituted on 20 January 1982; Judges Ago *(President)*, Gros, Mosler, Schwebel; Judge *ad hoc* Cohen.

Frontier Dispute (Burkina Faso/Republic of Mali): constituted on 3 April 1985; Judges Bedjaoui *(President)*, Lachs, Ruda; Judges *ad hoc* Luchaire, Abi-Saab.

Elettronica Sicula S.p.A. (ELSI) (United States of America v. *Italy)*: constituted on 2 March 1987 with the following composition – Judges Nagendra Singh *(President)*, Oda, Ago, Schwebel, Sir Robert Jennings. Following the death of Judge Nagendra Singh the Court, on 20 December 1988, elected President Ruda to succeed him as member and (ex officio) President of the Chamber.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua [as from 13 September 1990 – see pp. 194-195, below] *intervening)*: constituted on 8 May 1987 with the following composition – Judges Oda, Sette-Camara, Sir Robert Jennings; Judges *ad hoc* Valticos, Virally. The Chamber elected Judge Sette-Camara to be its President. After the death of Judge Virally, Mr. Torres Bernárdez was chosen to sit as judge *ad hoc* in his place, and on 13 December 1989 the Court declared the Chamber to be composed as follows: Judges Sette-Camara *(President)*, Oda, Sir Robert Jennings; Judges *ad hoc* Valticos, Torres Bernárdez (see pp. 193-194, below). On 7 February 1991 Judges Sir Robert Jennings and Oda exchanged places in the order of precedence within the Chamber owing to their election to be, respectively, the Court's President and Vice-President.

4. Provisions in the Rules relating to Chambers

Articles 15-18 and 90-93 of the Rules of Court contain the provisions relating to chambers.

IV. ASSESSORS

Article 30, paragraph 2, of the Statute and Article 9 of the Rules of Court provide that the Court may, either *proprio motu* or upon a request made not later than the closure of the written proceedings, decide, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it, without the right to vote. The chambers also have the power to appoint assessors.

These provisions have not been applied up to the present.

V. THE REGISTRAR

The Court appoints its Registrar (Statute, Art. 21, para. 2; Rules, Art. 22).

The present Registrar is Mr. Eduardo Valencia-Ospina (see Chap. V, pp. 133-134, below).

VI. PRIVILEGES AND IMMUNITIES

Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (*I.C.J. Acts and Documents No. 5*, pp. 200-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps, who is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (*ibid.*, pp. 210-213).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that ". . . if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there" and that "... judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations *laissez-passer* issued to the judges by the Court. Such *laissez-passer* have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

CHAPTER II

BIOGRAPHIES OF JUDGES

Biographies of judges who held office in the period 1 August 1992 to 31 July 1993 will be found below.

I. MEMBERS OF THE COURT ON 31 JULY 1993

President Sir Robert Yewdall JENNINGS

(Member of the Court since 6 February 1982; re-elected as from 6 February 1991; member of the Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*, 1986-1992, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989; President of the Court since February 1991)

Born on 19 October 1913.

Studied at Cambridge University, obtaining the degrees of M.A. and LL.B., and subsequently at Harvard University (Choate Fellow, 1936-1937). Honorary Doctor of Law, Universities of Hull (1987), Saarland (1988), Rome (1990) and Cambridge (1993).

Assistant Lecturer in Law, London School of Economics (1938-1939). Lecturer (1946-1955) and subsequently Whewell Professor of International Law in the University of Cambridge (1955-1982). Reader in International Law to the Inns of Court Council of Legal Education (1959-1970).

Fellow (since 1939), Senior Tutor (1949-1955) and sometime President of Jesus College, Cambridge.

Called to the Bar of Lincoln's Inn (1943); Honorary Bencher of Lincoln's Inn (since 1970); Queen's Counsel (since 1969).

Counsel in the *Rio Encuentro*, *Beagle Channel*, Franco-British *Continental Shelf Delimitation* and Dubai-Sharjah *Frontier Delimitation* arbitrations; appeared as Counsel before the Court in the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case.

Sometime legal consultant to a number of Governments (Argentina, Bangladesh, Brunei, Canada, Sudan, Venezuela, Sharjah, etc.).

Judge *ad hoc*, European Court of Human Rights, in *X* v. *United Kingdom* (1982).

Member of the Permanent Court of Arbitration (since 1982).

Public International Law Editor of the *International and Comparative Law Quarterly* (1957-1959). Editor of the *British Year Book of International Law* (1959), first with Sir Humphrey Waldock, and then as senior editor from 1974 to 1982.

Associate (1957), Member (1967), Vice-President (1979), President

(1981) and Honorary Member (1985) of the Institute of International Law. Honorary Life Member of the American Society of International Law.

Gave the general course on principles of international law at the Hague Academy of International Law (1967).

Author of various books, articles and monographs.

Vice-President Shigeru ODA

(Member of the Court since 6 February 1976; re-elected as from 6 February 1985; member of the Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*, 1986-1992, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989; Vice-President of the Court since February 1991; Acting President in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*)

Born on 22 October 1924.

Law degree, University of Tokyo (1947). Doctor of Law (JSD), Yale University (1953). Doctor of Law, University of Tôhoku (1962). Doctor *honoris causa* of the Bhopal University, India (1980), and of the New York Law School (1981).

Research Fellow in international law, University of Tokyo (1947-1949). Lecturer (1950-1953), Associate Professor (1953-1959) and Professor (1959-1976) at the University of Tôhoku. Professor Emeritus (1985). Technical Adviser to the Atomic Energy Commission (1961-1964) and to the Council for Marine Science and Technology in the Prime Minister's Office (1968-1971). Special Assistant to the Minister for Foreign Affairs (1973-1976). Member of the Science Council of the Ministry of Education (1969-1976), of the Council for Ocean Development in the Prime Minister's Office (1971-1976), and of the Advisory Committee for Co-operation with the United Nations University (1971-1976).

Delegate to the United Nations Conferences on the Law of the Sea (1958, 1960 and 1973-1975); member of the United Nations Group of Experts on Marine Science and Technology (1967-1968); Alternate Representative of Japan on the United Nations Committee on the Peaceful Uses of the Sea-bed and Ocean Floor (1968-1973); Legal Consultant to the ESCAP Committee for Co-ordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (1969, 1972 and 1975). Member of the panel of the International Atomic Energy Agency on the Legal Implications of the Disposal of Radio-active Waste into the Sea (1961-1963) and of the Agency's group of experts for the Study of the Character and Purpose of Appropriate Observation of Peaceful Nuclear Explosions (1970). Representative of Japan at the sixth General Conference of the Inter-Governmental Oceanographic Commission (1969); Chairman of the Working Group on Legal Questions related to Scientific Investigations of the Ocean (1968-1975). Alternate Member of the Asian-African Legal Consultative Committee (1971-1975).

Counsel for the Federal Republic of Germany before the International Court of Justice in the *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* cases (1968).

Member of the Executive Councils of the Japanese Society of International Law and of the Japanese branch of the International Law Association. Associate (1969) and Member (1979) of the Institute of International Law. Honorary life Member of the American Society of International Law (1975). Honorary Member of the Indian Society of International Law. Member of the Curatorium of the Hague Academy of International Law (since 1987); Member of the Curatorium of the Institute of International Public Law and International Relations (Thessaloniki).

Editor-in-chief of the *Japanese Annual of International Law* (1973-1977). General editor for *Publications on Ocean Development* and *International Law in Japanese Perspective* of Martinus Nijhoff Publications.

Lecturer on the "International Law of the Resources of the Sea" at the Hague Academy of International Law (*Recueil des cours*, 1969).

Publications: in English – *International Control of Sea Resources*, reprinted edition with a new introduction, 1989; *The International Law of the Ocean Development* (4 vols.), 1972-1979; *The Law of the Sea in Our Time* (2 vols.), 1977; *International Law of the Resources of the Sea*, reprinted edition with supplement (1979); *The Practice of Japan in International Law 1961-1970* (edited with H. Owada), 1982; in Japanese – *International Law of the Sea* (1956, revised ed. 1969); *International Law of Marine Resources* (3 vols.), 1971-1975; *Judicial Decisions of the Japanese Courts involving International Law* (edited with T. Sogawa), 1978, revised and updated edition, 1991; *The Law of the Sea*, Vol. I, 1979; *The Law of the Sea: 25 Years of Recollections*, 1981; *Treaties and Conventions* (edited with Y. Ishimoto), 1983, revised ed., 1992; *Commentary on the United Nations Convention on the Law of the Sea*, Vol. I, 1985; *The International Court of Justice*, 1987; *A Collection of Essays on the Law of the Sea*, 1989; and various articles on international law in English and in Japanese.

Judge Roberto AGO

(Judge *ad hoc* in the case concerning the *Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras* v. *Nicaragua)*; Member of the Court since 6 February 1979; re-elected as from 6 February 1988. President of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*, 1981-1984)

Born at Vigevano (Pavia) in 1907.

Doctor of Law and Doctor in Political Sciences (University of Naples).

Doctor *honoris causa* of the Universities of Nancy, Nice, Paris II, Geneva and Toulouse.

Professor of International Law at the Universities of Catania (1934-1935) and of Genoa (1935-1938), at the State University of Milan (1938-1956) and finally at the University of Rome (1956-1982); Professor emeritus at the University of Rome (since 1983). Full Member of the Accademia Nazionale dei Lincei.

Member and subsequently Chairman of the United Nations International Law Commission. Head of the Italian delegation to International Labour Conferences (1946-1978); Representative of the Italian Government on the ILO Governing Body; Chairman of that Body (1954-1955 and 1967-1968), of its Government Group, and of its Committee on Freedom of Association. Member of the ILO Committee of Experts on Application of Conventions and Recommendations.

Delegate of Italian Government to numerous international conferences. Head of Italian delegation to United Nations Conferences on the Law of the Sea (1958, 1960), Diplomatic Relations (1961) and the Law of Treaties (1968, 1969); President of Conference on the Law of Treaties. Member of the Italian State delegation for the revision of the Lateran concordat and the negotiation of understandings with other confessions.

Counsel for the Italian and various other governments in cases before the Permanent Court of International Justice, the International Court of Justice and other international tribunals. Member of the Permanent Court of Arbitration. Member or President of various commissions of arbitration or conciliation. President of various arbitration tribunals, in particular the Franco-German tribunal on the Saar, the Arbitration Tribunal between France and the United States on the *Interpretation of the Air Transport Agreement* (1963) and the Arbitration Tribunal on the question of the "Grands Moulins de Dakar" (1972).

Chairman of the Curatorium of the Hague Academy of International Law. Frequent lectures at that Academy, at the Graduate Institute of International Studies, Geneva, and at foreign universities and institutes.

Member (since 1956) and President (since 1991) of the Institute of International Law. Member of various learned bodies. Honorary President of the Italian Society for International Organization. Honorary President of the World Federation of United Nations Associations.

Director and co-director of various Italian law reviews.

Author of numerous works and articles, including the following: *Teoria del diritto internazionale privato, Parte generale*, Padua, 1934; "La responsabilità indiretta nel diritto internazionale", *Archivio di diritto pubblico*, 1936; "Règles générales des conflits de lois", *Recueil des cours*, Hague Academy of International Law, 1936; "La regola del previo esaurimento dei ricorsi interni in tema di responsabilità internazionale", *Archivio di diritto pubblico*, 1938; "Le délit international", *Recueil des cours*, Hague Academy of International Law, 1939; *Lezioni di diritto internazionale*, Milan, 1943; *Scienza giuridica e diritto internazionale*, Milan, 1950; "Considerazioni su alcuni sviluppi dell'organizzazione internazionale", *La Comunità internazionale*, 1952; "Diritto positivo e diritto internazionale", *Communicazioni e Studi dell'Istituto di diritto internazionale e straniero dell'Università di Milano*, 1955, and in *Scritti in onore di Tomaso Perassi*, 1957; "Science juridique et droit international", *Recueil des cours*, Hague Academy of International Law, 1956; "La codification du droit international et les problèmes de sa réalisation", *Recueil d'études de droit international en hommage à Paul Guggenheim*, Geneva, 1969; "Droit des traités à la lumière de la Convention de Vienne", *Recueil des cours*, Hague Academy of International Law, 1971; "Caratteri generali della comunità internazionale e del suo diritto", Università degli Studi di Roma, *Lezioni dell'anno accademico 1974-1975*; "The Internationally Wrongful Act of the State, Source of International Responsibility", eight reports to the International Law Commission, 1969-1979; "Pluralism and the Origins of the International Community", *Italian Yearbook of International Law*, 1977; "Studi sulla responsabilità internazionale", *Pubblicazioni della Facoltà di Giurisprudenza dell'Università di Camerino*, Vol. I, 1979; Vols. II and III, 1986; "Les premières collectivités interétatiques méditerranéennes", *Mélanges offerts à Paul Reuter. Le droit international: unité et diversité*, Paris, 1981; "The First International Communities in the Mediterranean World", *British Year Book of International Law*, 1982; "Le droit international dans la conception de Grotius", *Recueil des cours*, The Hague, 1983; "Positivism (International Law)", *Encyclopaedia of Public International Law*, ed. R. Bernhardt, Inst. Un., Amsterdam, 1985. "I quaranta anni delle Nazioni Unite", *La Comunità internazionale*, 1986; "Nouvelles réflexions sur la codification du droit international", *Mélanges offerts à Shabtai Rosenne*, Leiden, 1989; "Les avis consultatifs 'obligatoires' de la Cour internationale de Justice. Problème d'hier et d'aujourd'hui", *Mélanges à la mémoire de Michel Virally*, 1990; "'Binding' Advisory Opinions of the International Court of Justice", *American Journal of International Law*, 1991; "Recontres avec Anzilotti", *Revue de l'Institut universitaire européen*, Florence, 1993.

Judge Stephen M. SCHWEBEL

(Member of the Court since 15 January 1981; re-elected as from 6 February 1988; member of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*, 1981-1984, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989)

Born in New York City, on 10 March 1929.

Harvard University, B.A. *magna cum laude* with highest honours in government (1950); Cambridge University, studies in international law

(1951); LL.B., Yale Law School (1954). Doctor *honoris causa*, Bhopal University, India (1982).

Admitted to the Bar of the State of New York (1955); of the Supreme Court of the United States (1965); and of the District of Columbia (1976).

Attorney, White & Case, New York (1954-1959).

Assistant Professor of Law, Harvard University (1959-1961).

Professor of International Law and subsequently Edward B. Burling Professor of International Law and Organization, the School of Advanced International Studies, The Johns Hopkins University, Washington, D.C. (1967-1981). Visiting lecturer or professor at Cambridge University (1957, 1983); the Australian National University (1969); the Hague Academy of International Law (1972); the Graduate Institute of International Studies, Geneva (1980); and at other universities or institutes in the United States and elsewhere.

Assistant Legal Adviser, Department of State (1961-1966); Special Assistant to the Assistant Secretary of State for International Organization Affairs (1966-1967); Consultant to the Department of State (1967-1973). Counselor on International Law, Department of State (1973-1974); Deputy Legal Adviser, Department of State (1974-1981).

Legal Adviser to the United States delegation, and Alternate Representative in the Sixth Committee, during sessions of the United Nations General Assembly (1961-1965). United States representative and chairman of the United States delegation to various committees of the United Nations, including the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (1964); the Special Committee on the Question of Defining Aggression (1971); and the UNCTAD Working Group on a Charter of Economic Rights and Duties of States (1973-1974).

Member of the International Law Commission of the United Nations (1977-1981). Chairman of the Drafting Committee (1978); Special Rapporteur on the Law of the Non-Navigational Uses of International Watercourses (1977-1981).

Participated as Associate Representative, Representative, Counsel or Deputy Agent of the United States in various cases before the International Court of Justice (between 1962 and 1980). Member of the Board of Arbitration in *British Petroleum Company* v. *Iran and the National Iranian Oil Company* (1982-1985) and arbitrator or president in other international commercial arbitrations (1988-) .

Executive Vice-President and Executive Director of the American Society of International Law (1967-1973). Honorary Vice-President (1983-).

Member of the Board of Editors, *American Journal of International Law* (1967-1981). Chairman of the Editorial Advisory Committee, *International Legal Materials* (1967-1973).

Member of the Institute of International Law; the American Society of International Law; the American Branch of the International Law

Association; the American Bar Association; and the Council on Foreign Relations. Honorary Member of the Indian Society of International Law. Member of the International Advisory Committee of the Cambridge University Research Centre in International Law; the Board of Electors of the Whewell Professorship of International Law of Cambridge University; and the Board of Overseers' Committee to Visit the Harvard Law School.

Author of *The Secretary-General of the United Nations: His Political Powers and Practice*, 1952; *The Effectiveness of International Decisions*, 1971 (as editor); "Aggression, Intervention and Self-Defence in Modern International Law", *Recueil des cours*, Hague Academy of International Law, 1972; reports to the International Law Commission on the law of the non-navigational uses of international watercourses; *International Arbitration: Three Salient Problems* (1987); and some one hundred articles, notes and book reviews in legal and other publications. Research and drafting assistant to United Nations Secretary-General Trygve Lie in the writing of *In the Cause of Peace*, 1954.

Judge Mohammed BEDJAOUI

(Member of the Court since 19 March 1982; re-elected as from 6 February 1988; President of the Chamber formed to deal with the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, 1983-1987)

Born at Sidi-Bel-Abbes, Algeria, on 21 September 1929.

Doctor of Law. Diploma of the Institute of Political Studies (University of Grenoble).

"Avocat stagiaire" at the Court of Appeal of Grenoble (1951-1953). Research Assistant at the Centre national de la recherche scientifique (CNRS), France (1956-1958).

Legal Adviser to the Provisional Government of the Republic of Algeria (1958-1961) and as such participated in the independence negotiations at Evian and Lugrin.

Executive Secretary to the President of the National Constituent Assembly at Algiers (1962). Secretary-General of the Government (1962-1964).

Dean of the Faculty of Law and Economics of the University of Algiers (1964-1965).

Minister of Justice and Keeper of the Seals (1964-1970).

Algerian Ambassador to France (1970-1979). Permanent delegate of Algeria to Unesco (1971-1979). Ambassador and Permanent Representative of Algeria to the United Nations in New York (1979-1982).

Co-President of the United Nations Commission of Enquiry to Iran (February-March 1980). Vice-President of the United Nations Council for Namibia (1979-1982). Chairman of the Group of 77 (1981-1982). Chairman of the Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries. Member of the Arbitration Tribunal in the delimitation of the maritime boundary between Guinea and Guinea-Bissau (1983-1985) and of the Arbitration Tribunal for the delimitation of the maritime boundary between Guinea-Bissau and Senegal (1985-1989). Arbitrator or President in several international commercial arbitrations.

Participated in various sessions of the United Nations General Assembly as member, deputy-head or head of the Algerian delegation. Head of the Algerian delegations to the United Nations Conferences on Succession of States in Respect of Treaties (1977) and the Law of the Sea (1976-1980). United Nations Consultant Expert at the Vienna Conference on Succession of States in respect of State Property, Archives and Debts (1983).

Took part in various sessions of the OAU Council of Ministers and OAU Summit Meetings, and in various ministerial meetings or conferences of heads of State and government of the non-aligned countries, as member, deputy-head or head of the Algerian delegation.

Member of the International Law Commission (1965-1982).

Member of the Institute of International Law. Member of the French Society for International Law. Member of the Scientific Council of the Institut du droit économique de la mer of the Principality of Monaco. Member of the Governing Board of the Foundation for International Studies of the University of Malta, Valletta.

Author of numerous works and articles.

Judge NI Zhengyu

(Member of the Court since 6 February 1985)

Born in Jiangsu, China, 28 July 1906.

Bachelor of Arts (Chitz University, Shanghai); Bachelor of Laws (Soochow University Law School, Shanghai); Juris Doctor (Stanford University); Honorary Scholar (Johns Hopkins University); Doctor of Laws *honoris causa* (Osmania University, India).

Lecturer on Public International Law, Private International Law, Comparative Law, Civil Law, Civil Procedure, Judicial Organization, etc., at Soochow University Law School (Shanghai), the Great China University (Shanghai), the China Public Institute (Woosung), Chitz University (Shanghai), Chaoyang Law College (Chongqing), Soochow-Shanghai Union College of Law and Commerce (Chongqing), 1930-1945.

Professor of Law and concurrently Dean of the Law Faculty and Dean of Studies, Soochow University Law School (1948-1954).

Member, Shanghai Bar Association since 1931.

Member, International Prosecution Section, International Military Tribunal for the Far East (1946-1948).

Legal Counsel, Ambassador, Ministry of Foreign Affairs of the People's Republic of China (1956-1984). Legal Counsel of Chinese Delegation to the twenty-seventh session of the United Nations General

Assembly (1972). Legal Counsel of Chinese Delegation to the United Nations Sea-bed Committee (1972-1973). Legal Counsel of Chinese Delegation to the Third Conference on the Law of the Sea (in Caracas, 1974; Geneva, 1975; New York, 1977; New York and Geneva, 1981 and 1982). Chinese Language Co-ordinator in the Drafting Committee of the Third Conference on the Law of the Sea (New York and Geneva, 1981 and 1982).

Member, Board of Directors, Chinese Society of International Law (1980-).

Member, United Nations International Law Commission (1982-1984).

Member of the Institute of International Law (since 1991).

Member, National Committee of the Chinese People's Consultative Council (1959-1984).

Honorary President of the Board of Directors, Chinese Society of Oceanography (1985-).

Author of many works and articles on international law and related subjects.

Judge Jens EVENSEN

(Judge *ad hoc* in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*; Member of the Court since 6 February 1985)

Born at Oslo, Norway, on 5 November 1917.

Law degree, University of Oslo (1942); Studies abroad: Postgraduate studies at Minnesota Law School and Columbia Law School (1947); Harvard Law School (1952-1953); Doctor of Laws, Harvard University; Honorary Doctorate at the Heriot-Watt University, Edinburgh, Scotland; Part-time Associate at the Woodrow Wilson International Center for Scholars, Washington, D.C. (1975-1976).

Police Inspector and Public Prosecutor in *High Treason* cases, Oslo (1945-1946). Advocate, Supreme Court (1951). Law practice including period as Deputy Solicitor-General (1949-1961). Lecturer at the Law Faculty of the University of Oslo (1945-1973). Censor at the Law Faculty of the University of Oslo (1945-1973). Legal Adviser to the Norwegian Broadcasting Corporation. Delegate to the European Broadcasting Union (EBU).

Director-General of the Legal Department, Ministry of Foreign Affairs (1961-1973); Ambassador for negotiating the trade agreement with the European Communities (1972). Ambassador, International Law Adviser to the Ministry of Foreign Affairs (1979-1985).

Chairman of the Norwegian Commission on Maritime Limits (1961-1984); Chairman of the Norwegian Petroleum Council (1965-1979) and various other Norwegian governmental committees.

Legal Counsel for Norway before the International Court of Justice in the *Fisheries (United Kingdom* v. *Norway)* case (1949-1951) and *Certain Norwegian Loans (France* v. *Norway)* case (1955-1957); Counsel of

Norway in the advisory case concerning *Certain Expenses of the United Nations* (1961-1962); Agent and Counsel of Norway before the European Commission of Human Rights and the European Court of Human Rights (1962-1963; 1967-1969) and Counsel for Norway before various international tribunals including the United States Court of Claims acting as an International Arbitral Tribunal.

Minister of Commerce and Shipping (1973-1974). Minister for the Law of the Sea (1974-1978).

Head of the Norwegian delegation to the Third United Nations Conference on the Law of the Sea (1973-1982), one of the Vice-Presidents of the Conference. Chairman of the Norwegian delegation to the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea (1983-1985). Representative of Norway to the Sixth Committee of the General Assembly of the United Nations. Head of the Norwegian delegation to the United Nations Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction; Vice-Chairman of the Committee (1968-1973).

Member of the United Nations International Law Commission (1979-1985); Special Rapporteur on the Law of the Non-Navigational Uses of International Watercourses (1982-1985).

Associate Member of the Institut de droit international (since 1971). Member of the Permanent Court of Arbitration (since 1978). Member of the Norwegian-Icelandic Conciliation Commission established according to the Agreement of 28 May 1981 for the Delimitation of the Continental Shelf between Iceland and Jan Mayen.

Lectures on "Aspects of International Law relating to Modern Radio Communications", *Collected Courses*, Academy of International Law, The Hague (1965). Lectures during the extramural session of the Academy of International Law (Brasilia, 1983) on "The United Nations Convention on the Law of the Sea of 10 December 1982". Lectures on "International Law and Nuclear Weapons" at the twelfth conference of the World Peace through Law Center (Berlin, 1985). Lectures on "Working Methods and Procedures in the Third United Nations Conference on the Law of the Sea", *Collected Courses*, Academy of International Law, The Hague (1986).

Lectures at universities and societies in Norway and abroad: Belgium, Colombia, Denmark, Egypt, Finland, France, Germany, Greece, Iceland, India, Japan, the Netherlands, Poland, Sweden, Switzerland, Turkey, the United Kingdom, the United States, the USSR and Yugoslavia, on topics such as: Hugo Grotius — His Life and Impact on the Law of Nations; The International Court of Justice; International Law and Nuclear Weapons; International Watercourses; The Law of the Sea; Mankind's Right to Peace; Oil Policy and International Petroleum Legislation; The Protection of the Environment in the Modern Law of Nations; and the United Nations Charter.

Author of several books and articles.

Judge Nikolai Konstantinovitch TARASSOV

(Member of the Court since 9 December 1985; re-elected
as from 6 February 1988)

Born at Moscow on 2 October 1923.

Graduated from the Law Faculty of Moscow State University. Postgraduate studies at the same University.

Consultant to the Legal Department of the Presidium of the Supreme Soviet of the USSR (1949-1953).

Head of secretariat for the Secretary of the Presidium of the Supreme Soviet of the USSR (1953-1956).

Counsellor, Embassy of the USSR in Iran (1956-1961).

Head of section, Deputy Head of Department, and Head of Department in the Ministry of Foreign Affairs of the USSR (1961-1968).

Deputy Permanent Representative of the USSR to the United Nations, New York (1968-1972).

Ambassador of the USSR to Mexico (1972-1976).

From 1976 to his election to the Court, Principal Counsellor, Department of Foreign Policy Planning, Ministry of Foreign Affairs of the USSR.

Representative of the USSR to numerous United Nations bodies (Commission on Human Rights, 1968-1972; Committee for sanctions against Southern Rhodesia).

Member of the USSR delegation to several sessions of the United Nations General Assembly (twenty-third to twenty-sixth ordinary sessions; fifth special session on South West Africa, 1967; fifth emergency special session on Arab-Israeli Conflict, 1967).

In his personal capacity, member of the Committee for the Elimination of Racial Discrimination and member of the International Civil Service Advisory Board (1970-1972).

Head of USSR delegation to the Vienna talks on mutual force and armaments reductions and related measures in Central Europe (1976-1981) and at the seminar on economic, scientific and cultural co-operation in the Mediterranean (1984).

Member of the Russian International Law Association.

Judge Gilbert GUILLAUME

(Member of the Court since 14 September 1987; re-elected
as from 6 February 1991)

Born at Bois-Colombes, France, on 4 December 1930.

Licence (Bachelor's degree) in law, University of Paris. Diplôme from the Paris Institute of Political Studies; Diplôme d'études supérieures d'économie politique et de science économique (Diploma of Advanced Studies in Political Economy and Economic Science), University of Paris.

Alumnus of the Ecole nationale d'administration.

Member of the Council of State, as Auditeur (1957), then Maître des Requêtes (1963), and most recently Councillor of State (1981).

Legal Adviser to the State Secretariat for Civil Aviation (1968-1979); French Representative on the Legal Committee of the International Civil Aviation Organization (ICAO) (1968-1979) and Chairman of the Committee (1971-1975); French Representative on the Legal Commission to the ICAO Assembly (1968, 1971, 1974 and 1977); delegate to the diplomatic conferences on the suppression of the unlawful seizure of aircraft (The Hague, 1970), the suppression of unlawful acts against the safety of civil aircraft (Montreal, 1971) and air safety (Rome, 1973); President of the Diplomatic Conference on the Liability of the Carrier (Montreal, 1975); Head of the French delegations to the diplomatic conferences on the liability of the carrier vis-à-vis third parties (Montreal, 1978) and the non-use of force against civil aircraft (Montreal, 1984).

Chairman of the Conciliation Commission, Organisation for Economic Co-operation and Development (1973-1978); Member of the European Space Agency Appeals Board (1975-1978); Director of Legal Affairs, Organisation for Economic Co-operation and Development (1979).

Director of Legal Affairs, Ministry of Foreign Affairs (1979-1987).

Counsel for France in the arbitration proceedings between France and the United States over the Franco-American air agreement (1978); Agent for France in the arbitration proceedings between France and Canada over the Franco-Canadian fisheries agreement (1986); Agent for France in numerous cases before the Court of Justice of the European Communities and the European Commission and Court of Human Rights. French Representative on the Central Commission for the Navigation of the Rhine (1979-1987); Chairman of the Commission (1981-1982); French Representative on the Asian-African Legal Consultative Committee (1980-1987).

French delegate to the General Assembly of the United Nations (Sixth Committee) (1982-1987); Head of the French delegation to the Third United Nations Conference on the Law of the Sea (1982), the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Vienna, 1983) and the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Vienna, 1986).

Member of the Permanent Court of Arbitration (since 1980). Designated arbitrator by the International Telecommunications Satellite Organization and by the International Civil Aviation Organization, the International Chamber of Commerce, the Kuala Lumpur Regional Centre for Commercial Arbitration, the Cairo Regional Centre for Arbitration – the two latter bodies established under the auspices of the Afro-Asian Legal Committee – and the International Centre for the Settlement of Investment Disputes (ICSID).

Professor at the Institute of Political Studies, University of Paris.

President of the French branch of the International Law Association

(ILA). Vice-President of the French Society for International Law. Honorary Chairman of the French Society for Air and Space Law. Member of the International Institute of Law of the French-speaking Countries (IDEF). Member of the Académie de marine. Member of the Académie de l'air et de l'espace. Member of the International Academy of Comparative Law. Member of the Scientific Board of the *Revue générale de droit international public*. Chairman of the Board of Directors of the *Revue française de droit aérien et spatial*.

Author of numerous works and articles. Has given a course on "Terrorism and International Law" at the Hague Academy of International Law ("Terrorisme et droit international", *Recueil des cours*, 1989).

Judge Mohamed SHAHABUDDEEN

(Member of the Court since 6 February 1988)

Born at Vreed-en-Hoop, Demerara, Guyana, on 7 October 1931.

Bar Finals, London Inns of Court (1952). Called to the Bar, Middle Temple, London (1954). Queen's Counsel (1966). London University degrees – LL.B., B.Sc. (Econ.), LL.M., Ph.D., LL.D. Also LL.D. *honoris causa* of the University of the West Indies.

Private practice (1954-1959) followed by public legal service. Magistrate (1959). Crown Counsel (1959-1962). Solicitor General (1962-1973). Attorney General (1973-1987). Minister of Justice (1978-1987). Other ministerial appointments, including Acting Foreign Minister from time to time (1980-1987).

Member of various Guyana delegations on bilateral missions to other countries (1962-1987). Also member of various Guyana delegations to other international meetings, including: United Nations General Assembly (1972); United Nations Conference on Succession of States in respect of Treaties, Vienna (1977); Commonwealth Heads of Government Meetings, Lusaka (1979), Melbourne (1981), New Delhi (1983), Nassau (1985) and Vancouver (1987); the Cancun North/South Summit (1981); the General Assembly of the Organization of American States, St. Lucia (1981); Meetings of Ministers of Foreign Affairs of Non-Aligned Countries, Georgetown (1972) and New Delhi (1981); Meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries, Algiers (1981); the Conference of Heads of State or Government of Non-Aligned Countries, New Delhi (1983); the Commonwealth Caribbean Heads of Government Meetings, Ocho Rios (1982), Port of Spain (1983), Nassau (1984), Georgetown (1986) and St. Lucia (1987); the Commonwealth Law Ministers Meetings at Lagos (1975), Barbados (1980), Sri Lanka (1983) and Harare (1986); and the Commonwealth Law Conference, Hong Kong (1983).

Member of the Board of Governors of the University of Guyana (1963-1965). Member of the Council of Legal Education of the Commonwealth

Caribbean (1973-1987). Member of the Commonwealth Association of Legislative Counsel (1983).

Cacique's Crown of Honour (CCH) (1970); Order of Roraima (OR) (1980); Order of Excellence (OE) (1988).

Author of various books and articles.

Judge Andrés AGUILAR MAWDSLEY

(Member of the Court since 6 February 1991)

Born at Caracas, Venezuela, on 10 July 1924.

Doctorate in Political and Social Science *summa cum laude* from the Central University of Venezuela (Caracas). Master's degree in Civil Law from McGill University, Montreal, Canada.

Lecturer in Civil Law at the Central University of Venezuela (Caracas) (from 1948) and at the Andrés Bello Catholic University (from 1954). Professor of Law at both universities (since 1958). Dean of the Faculty of Law at the Central University of Venezuela (Caracas) until first appointment as Minister of Justice in May 1958. Vice-Rector of the Andrés Bello Catholic University (Caracas) (1962-1963). Member of the Council of the Faculty of Law at the Central University of Venezuela (Caracas) (1967-1969).

Minister of Justice (1958-1962). Elected Magistrate of the Court of Cassation by the Venezuelan Congress on 7 February 1959. Did not take up this appointment in view of prior appointment as Minister of Justice by the President of the Republic. Legal counsel to and judicial representative of Petróleos de Venezuela, S.A., the national oil company of Venezuela (1975-1983). Member of the Advisory Committee on Foreign Policy, by appointment of the President of the Republic (1979-1984; 1984-1989). Chairman of the committee set up to co-ordinate studies and activities relating to the optimum use of international water resources of interest to Venezuela (1983-1986).

Legal Counsel to the Venezuelan Chamber of Construction (1951-1958). Secretary of the Governing Council of the Bar Association of the Federal District (Caracas) (1955-1956). In February 1958, elected member of the Board of Directors of the Industrial Bank of Venezuela for the biennium 1958-1959; retained this office until first appointment as Minister of Justice. Vice-President of the Organization for the Protection of Children (1962-1963). Chairman of the National Board of Directors of Caritas, Venezuela (1966-1969). Member of the governing council of the Institute for Advanced Administrative Studies (IESA) (since 1966). Delegate of the Andrés Bello Catholic University to the Second Latin American Conference on Political and Social Sciences and Vice-Chairman of this meeting, Santiago and Viña del Mar, Chile (1966). Member of the Venezuelan Justice and Peace Commission (1967). Member of the Technical Board of the Federation of Institutions for the Protection of Children (since 1968). President of the National Committee of the International

Council on Social Welfare (1968). Head of the Venezuelan delegation to the Fourteenth Conference on Social Welfare, Helsinki (Finland) (1968), and Chairman of Working Group IV set up to study social policy and the right to education and culture.

Ambassador, Permanent Representative of Venezuela to the United Nations Office and the specialized agencies with headquarters at Geneva (1963-1965). President of the International Labour Conference (Geneva, 1964). President of the Inter-Governmental Committee for European Migration (ICEM) (Geneva, 1964 and 1965). Ambassador, Permanent Representative of Venezuela to the United Nations (1969-1972 and 1986-1991). Head of the Venezuelan delegation (in the absence of the Minister for Foreign Affairs) to the United Nations General Assembly (1969-1971, 1986-1990). Chairman of the First Committee (Political and Security Questions) of the United Nations General Assembly (1970). As representative of Venezuela, served as one of the Vice-Presidents of the United Nations General Assembly (1971). Member of the Permanent Court of Arbitration (since 1970). Representative of Venezuela to the United Nations Commission on Human Rights (1968-1972) and Chairman of the Commission (1971). Ambassador Extraordinary and Plenipotentiary of Venezuela to the United States of America (1972-1974). Member of the Inter-American Commission on Human Rights (IACHR) (1972-1985) and its President for several periods (1974-1976, 1976-1978, 1979, 1985). Head of the delegation of Venezuela to the Third United Nations Conference on the Law of the Sea and Chairman of the Second Committee of that Conference (1973-1982). Member of the International Commission of Jurists (since 1979) and President of the Commission (since 1986). Co-chairman of the committee appointed by the United Nations Secretary-General on the question of United States diplomats taken hostage in Iran (1980). Member of the Human Rights Committee established under the International Covenant on Civil and Political Rights (1981-1988). Special Representative of the United Nations Commission on Human Rights to study the human rights situation in Iran (1984-1985). Principal representative of Venezuela to the United Nations Security Council (1986-1987); President of the Council (1987). Chairman of the Credentials Committee of the United Nations General Assembly (1986). President of the United Nations Economic and Social Council (1988). Member of the Board of Trustees of the United Nations Institute for Training and Research (UNITAR) (1987-1988 and 1989-1990), and Chairman of the Board (1989-1990). Ambassador, Permanent Representative of Venezuela to the United Nations (1986-1991).

Member of the Governing Council (and Chairman) of the Venezuelan United Nations Association (1967-1968). Member of the Executive Board of the American Society of International Law (1983-1986). President of the Board of Directors of the Eduardo Frei International Foundation for Democracy and Development (1984-1986). Fellow of the Academy of Political and Social Sciences of Venezuela (since 1978) and President of its governing board (1985-1986). Member of the Hispano-Luso-American

Institute of International Law. Member of the Institute of International Law.

Order of the Liberator, Grand Sash. Order of Andrés Bello, First Class. Order of Francisco de Miranda, First Class. Cross of the Armed Forces for Co-operation, First Class. Knight Commander of the Order of Saint Gregory the Great (Holy See). Grand Cross of the Order of May (Argentine Republic). Order of José Maria Vargas (Central University of Venezuela), First Class.

Author of numerous books and articles.

Judge Christopher Gregory WEERAMANTRY

(Member of the Court since 6 February 1991)

Born in Colombo, Sri Lanka, on 17 November 1926.

B.A.; LL.B.; LL.D. (University of London); LL.D. *(honoris causa)* (University of Colombo).

Advocate, Supreme Court of Sri Lanka (1948-1965). Lecturer and Examiner, Council of Legal Education, Sri Lanka (1951-1956). Commissioner of Assize, Supreme Court of Sri Lanka (1965-1967). Justice of the Supreme Court of Sri Lanka (1967-1972). Member, Council of Legal Education, Sri Lanka (1967-1972). Honorary Visiting Professor, University of Colombo (since 1984). Honorary Life Member, Bar Association of Sri Lanka.

Sir Hayden Starke Professor of Law, Monash University, Melbourne, Australia (1972-1991). Emeritus Professor of Law, Monash University (since 1991). Chairman, Commission of Inquiry into International Responsibility for Phosphate Mining on Nauru (1987-1988).

Panellist, Unesco Seminar on Teaching of Human Rights, Canberra (1980); Member, United Nations University Task Force on Human Rights (1982); Vice-Chairman, United Nations Centre against *Apartheid*/Government of Nigeria Conference on Legal Status of *Apartheid* Régime, Lagos (1984); Panellist, SCOPE/ENUWAR/UNU (Scientists' Committee on Problems of the Environment/Environmental Consequences of Nuclear War/United Nations University), International Conference on Nuclear Danger, Tokyo (1985); Lecturer, United Nations Human Rights Commission Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Palais des Nations, Geneva (1988); Editor, United Nations University/United Nations Human Rights Commission's two-volume study on Science, Technology and Human Rights (1988-1990); Co-ordinator, United Nations University/Netherlands Institute of Human Rights Workshop on Science, Technology and Human Rights, Utrecht (1989).

Visiting Professorships and Academic Appointments: University of Tokyo (1978); University of Stellenbosch (1979); University of Papua New Guinea (1981); University of Florida (1984); Lafayette College, Pennsylvania (1985); University of Hong Kong (1989).

Member, Editorial Board: *Sri Lankan Journal of International Law; Human Rights Quarterly*, Johns Hopkins University; *Interdisciplinary Peace Research*, La Trobe University; *Journal of Ceylon Law*.

Associate Academician, International Academy of Comparative Law, Paris; Panel of Arbitrators, American Arbitration Association; former Vice-President, International Association of Lawyers against Nuclear Arms; Vice-President, International Commission of Jurists, Victoria; Past President, World Federation of Overseas Sri Lankan Organizations; Vice-Patron, United Nations Association of Sri Lanka; Member, Club of Rome (Australia); American Society of International Law; Commonwealth Lawyers Association; Society of Public Teachers of Law; World Association of Law Professors; Lawasia; World Association on the Philosophy of Law and Legal Philosophy.

Books: *The Law of Contracts, being a Comparative Study of the Roman-Dutch, English and Customary Laws of Contract in Ceylon* (2 vols.), 1965; *The Law in Crisis: Bridges of Understanding*, 1975; *Equality and Freedom: Some Third World Perspectives*, 1976; *Human Rights in Japan*, 1979; *Apartheid: The Closing Phases?*, 1980; *An Invitation to the Law*, 1980; *The Slumbering Sentinels: Law and Human Rights in the Wake of Technology*, 1983; *Law: The Threatened Peripheries*, 1984; *Nuclear Weapons and Scientific Responsibility*, 1987 (translated into Japanese); *Islamic Jurisprudence: Some International Perspectives*, 1988; *Human Rights and Scientific and Technological Development*, ed., 1990; *Nauru: Environmental Damage under International Trusteeship*, 1992; *Technology and Human Rights: Global Case Studies*, ed., 1993.

Reports: *Report of the Nauru Commission of Inquiry* (10 vols.), 1988 (joint author).

Articles in law journals in Asia, Africa, Australasia, Europe and North America.

Published lectures include: "Fundamental Perspectives on Equality and Freedom", World Congress on Equality and Freedom, St. Louis, Missouri (1976), an official event marking the American Bicentennial; "National and Transnational Systems as Denigrators of Human Rights", Unesco Seminar on Teaching of Human Rights, Canberra (1981); "The Right to Development", Lawasia Seminar on Establishment of a Regional Human Rights Framework for the Pacific, Suva (1985); "Cultural and Ideological Pluralism in Contemporary Public International Law", World Congress of International Academy of Comparative Law, Sydney and Melbourne (1986); "Traffic in Armaments: A Blind Spot in Human Rights and International Law", Joint Soviet/US International Conference on Nuclear Weapons and International Law, New York (1987); "Emerging Dimensions of Sovereignty in International Law", International Seminar on the Coming Global Civilization, Moscow (1988); "The Teaching of Human Rights", United Nations Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Geneva (1988); "The Law, Nuclear Weapons and the Real World", First World Convention of Lawyers against Nuclear Arms, The Hague (1989); "International

Arbitration under the UNCITRAL Rules", Regional Seminar on International Arbitration, Kuala Lumpur (1989); "Judicial Reasoning under the Common Law", Commonwealth Law Conference, Auckland (1990); "The Right to Know: Freedom of Information as a Human Right", Commonwealth Law Conference, Cyprus (1993).

Order of *Deshamanya* (Sri Lanka); Mohamed Sahabdeen Award for International Understanding in the SAARC Region, 1993.

Judge Raymond RANJEVA

(Member of the Court since 6 February 1991)

Born at Antananarivo, Madagascar, on 31 August 1942.

Bachelor's degree in law (1965), University of Madagascar, Antananarivo. *Diplôme* from the Madagascar National School of Administration (1966). Trainee in the Judicial Division of the Conseil d'Etat, Paris (1965-1966). *Diplôme* d'études supérieures de sciences politiques, University of Paris, Faculty of Law and Economic Science (1966). *Diplôme* d'études supérieures de droit public, University of Madagascar (1967). Doctorate of Law, University of Paris II (thesis: "La succession d'organisations internationales en Afrique"). *Agrégé* of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972).

Laureate of the University of Madagascar. Laureate of the National Association of Doctors of Law. Laureate of the Madagascar National School of Administration.

Civil Administrator (1966). Assistant (1966-1972), Lecturer (1972) and Professor (1981-1991) at the University of Madagascar. Professor at the Madagascar Military Academy and at the Madagascar National School of Administration. Director of the Public Law and Political Science Study Centre. Director of the Legal and Political Science Department of the University of Madagascar. Dean of the Faculty of Law, Economics, Management and Social Sciences (1982-1986); reappointed in 1986. First Rector of the University of Antananarivo (1988-1990). Associate or visiting lecturer at several universities abroad: University of Aix-Marseille III, Bordeaux I, Paris I (Panthéon-Sorbonne), Paris II (Panthéon-Assas) and the Institute of Advanced International Studies, La Réunion and Burundi. Director of the French-speaking research seminar at the Hague Academy of International Law (1987). Member of the Board of *Agrégation*, Examiners of the African and Malagasy Council on Higher Education, Ouagadougou.

Conciliator at the World Bank International Centre for Settlement of Investment Disputes since 1970. Member of Malagasy delegations to several international conferences: Third United Nations Conference on the Law of the Sea; Preparatory Commission for the International Seabed Authority and the Law of the Sea Tribunal; United Nations General Assembly (1979-1990); Non-Aligned Countries (1979); Conference of States which use French (1987); Head of the Malagasy delegation to the

United Nations Conference on Succession of States in respect of Treaties, Vienna (1976-1977); Member of the Malagasy delegation responsible for negotiating the revision of the co-operation agreements with France (1973); First Vice-Chairman of the First African Seminar on International Humanitarian Law, Yaoundé (1977). Vice-President for Africa of the International Conference of French-Speaking Faculties of Law and Political Science (1987-1991).

Counsel to the Republic of Mali in the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*. Consultant for Madagascar on the amicable settlement of the transfer to the State of the activities of Eau-Electricité de Madagascar and Electricité de France (1973).

Member and Vice-President of the Malagasy Academy (1974); President of the ethics and political science section (1975-1991). Managing Director of JURECO: legal, economic and financial databank – research and advisory bodies (1986-1990). Editor of the periodical *Lettre mensuelle de Jureco* (1986-1988). Member of the French Society of International Law. Member of the Quebec Society of International Law. Member of the Governing Body of the African Society of International and Comparative Law.

Member of the National Constitutional Committee (1975). Founding Member of the Malagasy Human Rights Committee (1971). Legal adviser to the Catholic Bishops Conference, Madagascar. Secretary-General of the Malagasy Legal Studies Society.

Commandeur of the National Order of Madagascar. Chevalier of the Madagascar Order of Merit. Officer of the National Order of Mali. Six Honours.

Author of numerous books, essays and articles and has given lectures at a number of seminars.

Prince Bola A. AJIBOLA

(Member of the Court since 5 December 1991)

Born to the Royal Family of Gbdaela II, on 22 March 1934, in Ago-Owu, Abeokuta, Ogun State, Nigeria.

Called to the Bar, Lincoln's Inn, 1962 (Barrister-at-Law); holds Bachelor of Laws Degree of London University; legal practitioner for 23 years, mostly in Lagos and also in all other parts of Nigeria; Principal Partner of Bola Ajibola and Co., with offices in Lagos, Ikeja, Abeokuta and Kaduna (specialization: commercial law practice with particular bias for international arbitration).

Attorney-General and Minister of Justice of the Federal Republic of Nigeria (1985-1991); President of the Association of Arbitrators of Nigeria; President of the Nigerian Bar Association (1984-1985); conferment of an Award of Senior Advocate of Nigeria (1986); Chairman of the Body of Senior Advocates of Nigeria (1985-1991); Chairman of the Disciplinary Committee of the Bar (1985-1991); Chairman of the General

Council of the Bar (1985-1991); Chairman of the Advisory Committee on the Prerogative of Mercy (1985-1991); Member of the Advisory Judicial Committee (1985-1991); Member of the Judicial Service Committee (Abuja) (1987-1991); Vice-Chairman of the Body of Benchers (1989-1990); Member of the Nigeria Police Council (1989-1991); Chairman of the Task Force for the Revision of the Laws of the Federation (1990).

Leader of the Nigerian Delegation to the United States of America to Initial an Executive Agreement on Procedure for Mutual Assistance on Law Enforcement Matters (1987) and of the Delegation to conclude a Treaty on Mutual Assistance in Criminal Matters (1989), of the Delegation to the United Kingdom to conclude a Treaty concerning the Investigation and Prosecution of Crime and the Confiscation of the Proceeds of Crime (1989), and of the Delegation to the Islamic Republic of Iran and to Algeria, for bilateral talks on Technical and Legal Co-operation (1991).

Member of the Nigerian Delegation to the United Nations General Assembly and Nigerian representative to the Sixth Committee (1986); temporary President of the United Nations General Assembly at its seventeenth special session on narcotic drugs (1990); Member of the International Law Commission (1986-1991).

Member of the Permanent Court of Arbitration (The Hague); Member of the International Chamber of Commerce Court of Arbitration, Paris; Member of the International Maritime Arbitration Commission, Paris; Member of the Panel of International Arbitrators of the London Institute of Arbitrators; Member of the International Advisory Committee of the World Arbitration Institute, United States of America.

Initiated the first ever African Law Ministers Conference, Abuja (1989) (attended by 32 African countries); Chairman of Meeting of ECOWAS Council of Law Ministers, Lagos, Nigeria (1990), where the Treaty Establishing the Court for the Economic Community of West African States was drafted and agreed to by ECOWAS law ministers; leader of the Nigerian Delegation to the Ethiopian All-Party Conference on Peaceful and Democratic Transition (1991); Chairman of the First Meeting of the Working Committee, All-Africa Law Ministers Conference, Cairo (1991); Member of the Nigerian Delegation to the World Peace through Law Conferences in Seoul, South Korea (1987), and Beijing, China (1990); leader of the Nigerian Delegation to the World Conference on the Reform of Criminal Law, Canada (1987), to the Commonwealth Law Conference in Auckland, New Zealand (1990) and the Commonwealth Law Ministers Conference in Christchurch, New Zealand (1990), to the World Ministerial Drugs Summit on Action to Reduce the Demand for Drugs and to Combat Cocaine Threat (1990), and to the 17th Session of the Asian African Legal Consultative Committee in Cairo (1991).

President of the World Association of Judges; Vice-President of the International Contractual Relations Commission of the International Chamber of Commerce; Vice-President of the Institute of International Business Law and Practice, Paris; National Chairman of the World Peace through Law Center; represented Africa in the demonstration trial on the law of the sea at the World Peace through Law Conference (Manila, 1977); Fellow of the Chartered Institute of Arbitrators; Fellow of the Nigerian Institute of Advanced Legal Studies; Friend of the Institute of Advanced Legal Studies, London.

Member of the African Bar Association, the International Bar Association, the Association of World Lawyers, the International Chamber of Commerce, the Commonwealth Law Association, the International Council on Commercial Arbitration, the World Arbitration Institute, and the Society for the Reform of Criminal Law.

Editor, *Nigeria's Treaties in Force*, 1970-1990; Editor, *All Nigeria Law Reports*, 1961-1990; Editor-in-Chief, *Justice* (a monthly journal of contemporary legal problems); General Editor of the *Federal Ministry of Justice Law Review Series (FMJLRS)*; Member of the Editorial Advisory Board of the University of Buckingham.

Publications include: *Principles of Arbitration*, 1980; *New Concepts in the Resolution of Disputes in International Construction Contracts*, 1981; *Work Paper on International Commercial Arbitration*, 1982; *Arbitration and State Enterprises – Case Study of Nigerian Cement Transactions*, 1983; *Modernization of National Arbitration Laws in Aid of International Commercial Arbitration*, 1984; *The Law and Settlement of Commercial Disputes*, 1984; *Law Development and Administration in Nigeria*, 1987; *Towards a Better Administration of Justice System in Nigeria*, 1988; *Integration of the African Continent through Law*, 1988; *Narcotics: Law and Policy in Nigeria*, 1989; *Compensation and Remedies for Victims of Crime*, 1989; *Banking Frauds and Other Financial Malpractices in Nigeria*, 1989; *Women and Children under Nigerian Law*, 1990; *Scheme relating to Mutual Assistance in Criminal Matters and the Control of Criminal Activities within Africa*, 1990; "Human Rights under Military Rule in Africa: The Nigerian Experience" in *Essays in Honour of Judge Taslim Olawale Elias*, 1991. Author of numerous articles and conference papers.

1987 World Jurist Award (under the auspices of World Peace through Law at Seoul); Senior Advocate of Nigeria; Recipient of 1986 Ogun State of Nigeria Outstanding Citizen Merit Award; Life Member, Nigerian Institute of International Affairs; Life Member, Body of Benchers, Nigeria; Knight of the Order of the British Empire.

Judge Géza HERCZEGH

(Member of the Court since 10 May 1993)

Born in Naxykapos, on 17 October 1928.

Educated at French Grammar School in Gödöllo, Hungary.

Bachelor's degree in law, University of Szeged (1951); Candidate in Jurisprudence (Ph.D.) (1965); Doctor *honoris causa* at the Law Faculty of the University of Marburg, Germany (1990); Corresponding Member (1985), and Member of the Hungarian Academy of Sciences (1990); Vice-

President of the Department of Legal and Economic Sciences of the Hungarian Academy of Sciences (1990-1993).

Research Fellow in public international law at the Institute of Political Sciences, Budapest (1951-1967); studies as Senior Fellow at various institutes, e.g. in Paris (1966), Salzburg (1970); Professor of Law, Head of the International Law Department of the Law Faculty of the University of Pécs (1967-1990); Dean of the Law Faculty of the University of Pécs (1981-1987); lectured in international humanitarian law at several universities (e.g., Bayreuth, Bratislava, Cambridge, Cracow, Exeter, Graz, Marburg, Moscow, Osijek, Novi Sad, Vienna) (1970-1985); lecturer in seminars for the implementation and dissemination of international humanitarian law, Warsaw (1985), Vegimont (1989).

Judge and Vice-President of the Constitutional Court of the Republic of Hungary (1990-1993).

Represented the Hungarian Red Cross Society as expert on international humanitarian law at the conferences of The Hague (1971), Vienna (1972), Tehran (1973), Monaco (1984); governmental expert on international humanitarian law at the conferences of Geneva (1971 and 1972); member of the Hungarian delegation at the Diplomatic Conference of Geneva on the protection of victims of armed conflicts (1974-1977); served as Vice-President of the Third Commission of the same Conference; member of the Hungarian delegation at the UNESCO Conference in Sophia (1977); Rapporteur at the Third Conference on Parliamentary Democracy organized by the Council of Europe on the topic "Problems of Transition from an Authoritarian or Totalitarian Régime to a Genuinely Democratic System", Strasbourg (1991); member of the expert working group ("Badinter Group") preparing the draft convention on peaceful settlement of disputes within the framework of the Conference on Security and Co-operation in Europe, Paris (1992).

Author of the following works: *The Colonial Question and International Law* (in Hungarian), Budapest, 1962; *General Principles of Law and the International Legal Order*, Budapest, Series in Foreign Languages, 1969; *Development of International Humanitarian Law*, Budapest, 1984; *Foreign Policy of Hungary, 896-1919* (in Hungarian), Budapest, 1987; and of numerous articles in international law and relations, especially in international humanitarian law.

II. JUDGES *AD HOC*

Judge *ad hoc* Nicolas VALTICOS

(Judge *ad hoc* in the case, referred to a Chamber, concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* and in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*)

Born on 8 April 1918 (Greek nationality).

Studied law at the Faculty of Law of the University of Paris. First degree in law (1939). Ph.D. in law (doctorat d'Etat, mention très bien) (1948). Faculty prize and Dupin senior prize awarded by the Paris Faculty of Law for doctoral thesis (1948-1949).

Barrister at Law in Athens, 1941.

Chief of Section at the Commission administering relief in Greece (under the auspices of the International Committee of the Red Cross) (1942-1945).

Joined the International Labour Office in 1949. In 1955 appointed Chief of the Application of Conference Decisions Division. In 1964 appointed Chief of the International Labour Standards Department. From 1976 to 1981 Assistant Director-General, Adviser for International Labour Standards.

Member and Chairman of various international arbitral tribunals and commissions of enquiry.

Judge *ad hoc* in the case concerning the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*.

Associate Professor at the Faculty of Law of the University of Geneva (1972-1981).

Member of the Institute of International Law, Secretary-General (1981-1991), First Vice-President (since 1991). Member of the Permanent Court of Arbitration.

Doctor *honoris causa* of the Universities of Utrecht (Netherlands), Leuven (Belgium), Athens (Greece) and Neuchâtel (Switzerland).

Member of the Academy of Athens.

Award of the Professorship Henri Rolin of international law (Belgium) for 1979-1980.

Honorary Member of the American Society of International Law. Member of the Société française pour le droit international, of the International Law Association and of the Greek Society of International Law. Member of the Council of the International Institute of Human Rights.

Has given many lectures, in particular at the Hague Academy of International Law (twice), at the International Institute of Human Rights (Strasbourg), at the International Seminar for Diplomats (Salzburg, Austria), at the Institut des hautes études internationales (Paris), at the Graduate Institute of International Studies (Geneva), and at various universities and societies in Belgium, France, Greece, Italy, Japan, Poland, Romania, Switzerland, the United Arab Emirates, the United States.

Has published over 120 studies, articles and books on questions of international law, human rights, civil law and labour law.

Judge *ad hoc* Paul Henning FISCHER

(Judge *ad hoc* in the case concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark* v. *Norway)* and in the case concerning *Passage through the Great Belt (Finland* v. *Denmark)*)

Born on 24 March 1919.

Bachelor of Laws (1943), Doctor of Laws, University of Copenhagen (1957).

Assistant Professor of Public International Law, University of Copenhagen (1948-1952).

Attaché of the Danish Legation, Stockholm (1944); Secretary and Head of Section, Ministry of Foreign Affairs, Copenhagen (1946); Secretary of Legation, The Hague (1952); Head of Section, subsequently Head of Division and Deputy Under-Secretary, Ministry of Foreign Affairs (1955); Ambassador to Warsaw, in addition accredited to Bucharest and Sofia (1960); Permanent Under-Secretary of State for Foreign Affairs (1961); Ambassador to Paris (1971); Ambassador to Bonn (1980-1989); Treasurer of the Royal Orders; Chamberlain at the Royal Danish Court.

Alternate Representative, Danish delegation to the fourteenth session of the General Assembly of the United Nations (1959); Alternate Representative, Danish delegation to the fifteenth session of the General Assembly of the United Nations (1960).

Conciliator under the Vienna Convention on the Law of Treaties (1981); Member of the Permanent Court of Arbitration (1982); Member of the CSCE Dispute Settlement Mechanism (1991).

Publications: "European Coal and Steel Community, International Law Studies on International Co-operation" and several publications on legal and international subjects.

Decorations: Grand Cross of the Order of Dannebrog and several foreign Grand Crosses.

Judge *ad hoc* Santiago TORRES BERNÁRDEZ

(Judge *ad hoc* in the case, referred to a Chamber, concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*)

Born in Vigo (Spain) on 18 November 1929.

Awarded the *Gran Cruz del Mérito Civil* (1987).

Licenciado (1952) and Doctor of Law (1959) of the University of Valladolid (Spain). *Diplomé d'études supérieures européennes* (1955) and Doctor of Law (1957) of the University of Saar (Federal Republic of Germany). Member of the Bar of Madrid. Adviser in questions relating to the peaceful settlement of international disputes.

Member of the International Fact-Finding Commission established by Additional Protocol I to the Geneva Conventions of 1949 for the protection of war victims.

Member of the Permanent Court of Arbitration. Member of the Institute of International Law.

Former Registrar of the International Court of Justice (1980-1986). Former Deputy Director of the Codification Division at the Office of Legal Affairs of the United Nations Organization and Deputy Secretary of the International Law Commission, as well as of diplomatic plenipotentiary conferences on codification and progressive development of international law.

Professor of the Instituto Universitario Ortega y Gasset (Madrid). Former Director of Studies at the Centre for Studies and Research of the Hague Academy of International Law.

Member of the Société française pour le droit international, the International Law Association, the American Society of International Law and the Instituto Hispano-Luso-Americano de Derecho Internacional. Honorary Member of the Asociación española de profesores de derecho internacional y relaciones internacionales.

Author of numerous publications in the field of international law, including on the International Court of Justice and its procedures.

Judge *ad hoc* Kéba Mbaye

(Judge *ad hoc* in the case concerning the *Arbitral Award of 31 July 1989 (Guinea-Bissau* v. *Senegal)*)

Born at Kaolack, Senegal, on 5 August 1924.

Holder of the diploma of advanced studies in private law (Paris); holder of the certificate of the Ecole nationale de la France d'outre-mer (Magistrature Department).

Acting Deputy-Judge (1954-1958); Deputy to the Procureur de la République, St. Louis, Senegal (1958-1960).

Member of the Supreme Court of Senegal (1960) and its First President (1964-1982). Honorary First President of the Supreme Court.

President of the Constitutional Council of Senegal.

Lectured at the Faculty of Law of the University of Dakar and at the Ecole nationale d'administration of Senegal (1967-1978).

Former Chairman of the Commission on the Codification of the Law of Civil and Commercial Liabilities.

Doctor *honoris causa* of the Universities of Lille II, of Savoie (France), of Bhopal (India) and of Emory (United States of America).

Has been a member of various United Nations bodies and has in particular participated as member and chairman in the work of the Commission on Human Rights, the Commission responsible for seeking the settlement of any dispute between States Parties to the Convention against Discrimination in Education, the Special Committee to investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories and of the *Ad Hoc* Working Group of Experts to investigate violations of human rights in southern Africa; member of the ILO Committee of Experts.

Corresponding Member of the Académie royale des sciences d'outre-mer de Belgique; Member of the International Academy of Comparative Law and of the Institute of International Law; Member of the International Law Association; Member of the Curatorium of the Hague Academy of International Law.

Former President and Member of the International Committee on Comparative Law, of the International African Law Association, of the International Committee for Information and Documentation in the Social Sciences; Member of the Governing Board of the European Foundation for Human Rights; Member of the International Institute of Procedural Law; Vice-President of the International Institute of Humanitarian Law; Member of the Administrative Council of the International Penal Law Association, of the International Criminology Association and of the Société de législation comparée; Vice-Chairman of the Executive Committee of the International Institute of Human Rights (René Cassin Foundation); former Chairman of the International Commission of Jurists; Honorary President of the World Federation of United Nations Associations; President of the International Academy of Human Rights; Member of the Société française pour le droit international.

Was President of the Legal Sub-Commission of the OAU Commission of mediation in the border dispute between Upper Volta and Mali and a Member of the Permanent Court of Arbitration; was General Rapporteur at the OAU Conference which adopted the African Charter on Human and Peoples' Rights, and a member of the Arbitration Tribunal in the delimitation of the maritime boundary between Guinea and Guinea-Bissau (1983-1985).

Member of the International Court of Justice from 6 February 1982 to 5 February 1991; Vice-President of the Court from 1987 to 1991.

Author of numerous publications concerning the law of Senegal, the law of black Africa, human rights in general, and in particular the right to development. Has given a course on Interest to Act before the International Court of Justice at the Hague Academy of International Law (1988).

Judge *ad hoc* Mohsen AGHAHOSSEINI

(Judge *ad hoc* in the case concerning the *Aerial Incident of 3 July 1991 (Islamic Republic of Iran* v. *United States of America)*)

Born in Tehran, Islamic Republic of Iran, on 10 October 1945.

Studied at the Faculty of Law, University of Tehran (LL.B., 1967); University of London (Postgraduate Diploma in Law, 1971, and LL.M., 1973); University of Oxford (B.Litt., 1978); and Gray's Inn, London (1972-1973).

Legal Adviser for International Claims, Ministry of Industries (1979). Legal Adviser and Head of the Legal Department, Industrial Development and Renovation Organization of Iran (1979-1982). Lecturer, Faculties of Law, Letters, and Divinity, Tehran University (1980-1982). Legal Consultant to the Central Bank of the Islamic Republic of Iran (1981). Head of Delegation, Ministry of Industries, to Vienna Conciliation held under the Algerian Declarations (1982). Legal Adviser for Foreign Claims, the Shipping Lines Organization of the Islamic Republic of Iran (1981-1982). Legal Adviser to Iran's Bureau for the Coordination and Implementation of the Algerian Declarations (1982). Legal Assistant, Iran-United States Claims Tribunal (1982-1984). *Ad hoc* Arbitrator, Iran-United States Claims Tribunal (1984). Arbitrator in certain cases before the International Chamber of Commerce (1985 and 1991). Deputy in Charge of Legal Affairs, the Hague Branch of the Bureau of International Legal Services of the Islamic Republic of Iran (1984-1986); and subsequently its Director (1986-1990). Member of the Iran-United States Claims Tribunal (since 1990).

Has written a number of research papers and articles on various legal issues.

Judge *ad hoc* Georges Michel ABI-SAAB

(Judge *ad hoc* in the case concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*)

Born at Heliopolis, Cairo, Egypt, on 9 June 1933.

Licencié en droit of the University of Cairo (1954). Postgraduate studies in Law, Economics and Politics at the Universities of Cairo (D.E.S. in Private Law and in Public Law), Paris, Michigan (M.A. Econ.), Harvard (LL.M., S.J.D.), Cambridge and Geneva (Doctor of Political Science). Diploma of the Hague Academy of International Law.

Professor of International Law at the Graduate Institute of International Studies, Geneva, since 1969 (having taught there since 1963).

Member of the Institute of International Law.

Member of the Egyptian delegation to the Conference of Government Experts (1972) and the Diplomatic Conference on the Reaffirmation and Development of Humanitarian Law Applicable in Case of Armed Conflict (1974-1977).

Counsel and Advocate of the Tunisian Government in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* before the International Court of Justice; and of the Egyptian Government in the arbitration on the *Frontier Dispute (Taba) (Egypt/Israel)*.

Judge *ad hoc* in the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, before a Chamber of the International Court of Justice.

Author of numerous books and articles, including *Les exceptions préliminaires dans la procédure de la Cour internationale, Etude des notions fondamentales de procédure et des moyens de leur mise en œuvre*, Paris, Pedone, 1967; *International Crises and the Role of Law: The United Nations Operation in the Congo 1960-1964*, Oxford University Press, 1978; *The Concept of International Organization* (as editor), Paris, Unesco, 1981 (French edition, 1980); and two courses at the Hague Academy of International Law: "Wars of National Liberation in the Geneva Conventions and Protocols" (*Recueil des cours*, Vol. 165 (1979-IV), and the General Course in 1987.

Judge *ad hoc* Bengt Henry Gabriel Arne BROMS

(Judge *ad hoc* in the case concerning *Passage through the Great Belt (Finland* v. *Denmark)*)

Born in Sortavala, Finland, on 16 October 1929.

University of Helsinki, LL.B. (1951), LL.M. (1951), M.Pol.Sci. (1954), LL.D. (1959); University of Michigan, LL.M. (1953); Cambridge University, Diploma in International Law (1957). Qualified Judge in Finland (1957).

Professor of Constitutional and International Law, and Vice-Dean and Dean of the Law Faculty, University of Turku (1962-1970); Professor of International and Constitutional Law and Vice-Dean of the Law Faculty, University of Helsinki (since 1970).

Member of the High Court of Impeachment of the State of Finland (since 1985); Member of the International Court of Arbitration set up by the International Chamber of Commerce in Paris (since 1985); Member of the Permanent Court of Arbitration in The Hague (since 1986); Judge and Chairman of Chamber I at the Iran-United States Claims Tribunal in The Hague (since 1988). Nominated by the Government of Finland to the International Centre for the Settlement of Investment Disputes (ICSID) panels of arbitrators and mediators since Finland joined the ICSID Convention.

Member of the delegation of Finland to the General Assembly of the United Nations (1967, 1972-1979, 1981-1988). Vice-Chairman of the Sixth Committee of the General Assembly (1974). Chairman of the delegation of Finland to the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (1975-1989), Chairman of the Committee (1975-1979, 1983, 1988), Vice-Chairman (1981-1982, 1984-1987). Member of the Special Committee on the Question of Defining Aggression (1968, 1972-1974), Chairman (1974), Vice-Chairman (1972-1973).

Representative of the State of Finland in the Aaland Island Delegation (1982-1987). Member of the Aaland Islands Committee to draft a new constitution for the Aaland Islands (1981-1987). Member of the Committee to Review the Constitution of Finland, nominated by the Cabinet of Finland (1983-1984).

Associate Member of the Institut de droit international (1973-1979), Member since 1979; Member of the Academy of Sciences of Finland (since 1980), Member of the Board of the Academy of Sciences (1983-1989); Honorary Member (Academician) of the Hungarian Academy of Sciences (1988); Member of the World Association of Professors in International Relations (WAIR) (1985); Member of the Academia

Europeae (1989). President of the Finnish Branch of the International Law Association (since 1980); Member of the Executive Council of the International Law Association (London) (since 1980); Chairman of the Board of the Institute for Developing States of the University of Helsinki (1982-1987). Member of the delegation of Carelia to develop economic and cultural life in Eastern Finland (since 1971). Director of the Institute of International Law at the University of Helsinki (since 1970). Chairman of the Board to arrange the Session of the Institut de droit international in Helsinki in 1985; Chairman of the Board of the First, Second, Third and Fourth Summer Seminars in Public International Law at the University of Helsinki (1987-1988; 1990-1991).

Invited by the Universities of Turku, Tampere, Rovaniemi, Uppsala, Stockholm and Bergen to give opinions on the applicants for Chairs in International Law and Political Science.

Principal publications: Books: *The Doctrine of Equality of States as Applied in International Organizations*, Dissertation, 1959; *The Legal Status of the Suez Canal*, 1961; *The Foreign Affairs Committee of the Parliament of Finland* (in Finnish), 1961; *Eduskunnan ulkoasiainvaliokunta. Vertaileva valtiosääntöoikeudellinin tutkimus*, 1967; *Itävallan pysyvän puolueettomuuden kehitys ja jäsenyys Yhdistyneissä Kansakunnissa*, 1968; *Yhdistyneet Kansakunnat*, 1968, 2nd ed., 1976; *The Definition of Aggression in the United Nations* (1968); *Kansainvälinen oikeus*, 1978; *The United Nations* (1990). Articles: "The Definition of Aggression", in 154 *Recueil des cours* (1977-I), pp. 299-400; and a large number of articles in Finnish, Swedish, English and French on international and constitutional law.

President Urho Kekkonen's Prize (1975).

Several medals during the war of 1941-1945; Commander of the Finnish Order of the Lion (1980).

Judge *ad hoc* José Maria RUDA

(Judge *ad hoc* in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*)

Born at Buenos Aires on 9 August 1924.

Doctor of Laws. Lawyer, Faculty of Law and Social Sciences, University of Buenos Aires (1949). Master of Law (in International Law), New York University (1955). Doctor of Laws *honoris causa* of the University of Punjab (1976), the Universidad Autónoma de Madrid (1990) and Peking University (1990).

Member of the Institute of International Law; Member of the International Law Association; Member of the Inter-American Institute of International Juridical Studies; Member of the Hispano-Luso-American Institute of International Law; Member of the International Institute of

Space Law; Member of the Permanent Court of Arbitration; Member of the Curatorium of the Hague Academy of International Law.

Member of the International Court of Justice from 6 February 1973 to 5 February 1991; member of the Chamber formed by the Court to deal with the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, 1983-1987; President of the Court from 1988 to 1991.

Member and President of the Iran-United States Claims Tribunal (since 1991).

Professor of Public International Law at the Faculty of Law and Social Sciences of the University of Buenos Aires. Former Professor of Public International Law at the National Defence College. Visiting Professor at the Colegio de México: course on Argentine foreign policy in the twentieth century (August 1963). Lectures on reservations to treaties at the Hague Academy of International Law (1975).

Officer, Division of Codification of International Law of the Office of Legal Affairs of the United Nations Secretariat (1950-1955). Rapporteur of the Sixth Committee of the United Nations General Assembly at the seventeenth session of the United Nations General Assembly (1962); Chairman of the Committee at the eighteenth session (1963). Member of the International Law Commission of the United Nations (1964-1972); Chairman of the Commission (1968); observer for the Commission at the meeting of the Inter-American Juridical Committee (Rio de Janeiro, 1968); member of the Drafting Committee (1965, 1966, 1967 and 1970).

Counsellor, first class, at the Argentine Embassy in La Paz, Bolivia (1957-1959). Chef de Cabinet to the Minister for Foreign Affairs and Worship (1959-1961). Legal Counsel (1961-1965). Permanent Representative to the United Nations (1965-1970). Agent for the Argentine Republic before the arbitration tribunal in the *Rio Encuentro* case (London, 1965-1968). Ambassador Extraordinary and Plenipotentiary, Under-Secretary for Foreign Affairs and Worship (1970-1973).

Representative at the 1959-1969 sessions of the United Nations General Assembly and Chairman of the Argentine delegation (1966-1969); delegate to the Eighth Meeting of Consultation of Ministers of Foreign Affairs (Punta del Este, 1962); representative at the United Nations Conference on Consular Relations and member of the Drafting Committee of the Convention on Consular Relations (Vienna, 1963); Chairman of the Argentine delegation to the Mixed Argentine-Bolivian Commission (1963); delegate to the Commission on River Traffic with Paraguay (1964); Chairman of the Argentine delegation to the Mixed Argentine-Uruguayan Commission on a comprehensive survey of the River Plate (1964-1966); delegate to the first extraordinary conference (Washington, 1964); representative in the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (New York, 1966 and 1968); representative at the United Nations Conference on the Law of Treaties (Vienna, 1968);

representative in the United Nations *Ad Hoc* Committee on the Sea-Bed, Rio de Janeiro (1968), and in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction (1969-1970).

Author of numerous works and articles on public international law.

Judge *ad hoc* Ahmed Sadek EL-KOSHERI

(Judge *ad hoc* in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*)

Born at Cairo, Egypt, on 4 April 1932.

Licencié en Droit, Faculté de Droit (1952), D.E.S. Droit Musulman (1954), D.E.S. Droit Privé (1955), D.E.S. Droit Public (1956), Cairo University. D.E.S. en Sciences Politiques (1957), Diplôme de Droit Comparé (1959), Paris University. D.E.S. en Histoire et Philosophie de Droit (1960), Doctorat d'Etat en Droit (1962), Rennes University.

Faculty Member of the Law School, Ain Shams University, Cairo (1958-1974). Visiting Professor, Beirut Arab University (1963-1964) and Nanterre University (Paris X) (1987-1988). Professor of International Economic Law and Vice-President of Senghor University, Alexandria.

Partner of Kosheri, Rashed and Riad law firm, Cairo.

Member of the Egyptian Conseil d'Etat (1952-1958). Founding General Counsel of the Arab Fund for Economic and Social Development, Kuwait (1963-1964). Legal Adviser of the Ministry of Oil and Finance, Kuwait (1968-1969). Secretary-General of the Islamic Development Bank, Jeddah (1978).

Member of the Institut de droit international. Member of the Council for International Commercial Arbitration (ICCA). Member of the Conseil d'Arbitrage Franco-Arabe. Member of the Scientific Council of the International Business Law Institute, International Chamber of Commerce, Paris.

Author of numerous books and articles on general public international law, international commercial law and on international arbitration.

Judge *ad hoc* Antonio de Arruda FERRER-CORREIA

(Judge *ad hoc* in the case concerning *East Timor (Portugal* v. *Australia)*)

Born on 15 August 1912.

Licentiate (1935) and Doctor (1939) of Law, University of Coimbra. Doctor *honoris causa* (1989) of the University of Aveiro (Portugal) and the Federal University of Rio de Janeiro (Brazil).

Assistant Professor (1940-1948) and Titular Professor (from 1948) in the Faculty of Law of the University of Coimbra, teaching the following subjects: Introduction to the Study of Law, Private Law, Civil Procedure, Commercial Law and Private International Law. From 1964, teaching at the Faculté internationale de droit comparé (Strasbourg), and Member of its Executive Commission from 1965; Dean of the Faculty of Law (1974) and Rector of the University of Coimbra (1976-1982); Rector emeritus (appointed with approval of the Ministry of National Education) in 1982.

Has lectured extensively at various universities and other institutions in Portugal and abroad.

Took part in the preparation of the Portuguese Civil Code of 1966 and in the revision of the draft of the general part of the Portuguese Criminal Code (1963); appointed President of the Commission for the Revision of the Commercial Code (1977) and later of the Commission for the Reform of Commercial Legislation (1985). Elected by Parliament as a Member of the High Council of the Judiciary (1985) and appointed (by the Ministry of Justice) as President of the Portuguese section of the International Commission on Civil Status (ICCS) (1986).

Participated in the Ibero-American Congress of International Law held in Madrid (1951) and in the congresses organized by the Hispano-Luso-American Institute of International Law at São Paulo (1953), Lisbon (1972) and Madrid (1977). General Rapporteur at the Eighth Congress of the International Academy of Comparative Law (Pescara, 1970) and President at five of the six sessions held by the Faculté internationale de droit comparé in Portugal (1965, 1966, 1971, 1980 and 1987).

Member of the Institute of International Law; Rapporteur of the 12th Commission (international sale of works of art) at the Basle session (1991). Member of the International Academy of Comparative Law (Paris), of the International Comparative Law Association (Paris) and of the Institut du droit et des pratiques des affaires internationales (Paris). Honorary Member of the Institute of Brazilian Lawyers. Honorary President of the Luso-Brazilian Institute of Comparative Law. Founder Member of the Fondation de l'Université de l'Europe (Paris). Member (since 1959) and Vice-President of the Board of Administration of the Calouste Gulbenkian Foundation.

Grand Cross of several Portuguese and foreign orders.

Editor of the *Revue de législation et de jurisprudence* and Director of the *Revue de droit et d'économie* since 1975. Has given a course at the Hague Academy of International Law on "Les problèmes de codification en droit international privé", *Recueil des cours* (1975).

Principal publications: *Dolo e preterintencionalidade*, 1935; *Erro e interpretaçao na teoria do negócio juridico*, 1939 (1st ed.), 1968 (2nd ed.), 1985 (3rd ed.); *Sociedades ficticias e unipessoais*, 1948; *Estudos Jurídicos*, I, 1968; *Estudos Jurídicos*, II (Direito Civil e Comercial, Direito Criminal), 1969; *Estudos Jurídicos*, III (Direito Internacional Privado), 1970; *Liçoes de Direito Comercial* (cicl.), I (latest version: 1973), II (latest version:

1968), III (latest version: 1975); *Liçoes de Direito Internacional Privado* (cicl.) (latest version: 1973-1975); *Les problèmes de codification en droit international privé*, 1975; *Direito Internacional Privado – Alguns problemas*, 1981; *Discursos e entrevistas*, 1982; *Estudos vários de Direito*. *"Acta Universitatis Conimbrigensis"*, 1982; *Temas de Direito Comercial e de Direito Internacional Privado*, 1989.

Author of a comprehensive bibliography comprising monographs, short treatises, review articles, notes on judicial decisions and speeches, totalling over 100 titles.

Judge *ad hoc* Sir Ninian STEPHEN

(Judge *ad hoc* in the case concerning *East Timor (Portugal* v. *Australia)*)

Born in the United Kingdom on 15 June 1923.

Educated in the United Kingdom, Switzerland and Australia. War Service 1941-1946, Australian Army.

Honorary doctorates (Melbourne, Sydney and Griffith Universities). Honorary Master, Gray's Inn.

Admitted to practise in Victoria as a barrister and solicitor in 1949 after studies at University of Melbourne; LL.B. (Melbourne), 1950.

Practised as a solicitor, 1949-1952, and from 1952 as a barrister and member of the Victorian Bar; appointed Queen's Counsel, 1966. Appointed to the Victorian Supreme Court bench in 1972 and in March 1972 appointed a justice of the High Court of Australia. Sworn of the Privy Council of the United Kingdom in 1979 and sat as a member of its Judicial Committee. Retired from the High Court of Australia in 1982 when senior puisne justice to take up appointment as Governor-General of Australia, which office held until 1989.

Appointed Australia's first Special Ambassador for the Environment, 1989; Chairman of various Australian governmental bodies including the Constitutional Centenary Foundation, the Antarctic Foundation, the National Library of Australia, the Australian Banking Industry Ombudsman Council and the National Local Government Environment Advisory Group. Appointed in 1992 by the United Kingdom and Republic of Ireland Governments as Chairman of Strand Two of the Talks in Northern Ireland.

Honours and awards: A.K., G.C.M.G., G.C.V.O., K.B.E., P.C.

Judge José SETTE-CAMARA

(Judge *ad hoc* in the case concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*)

Born in Alfenas, State of Minas Gerais, Brazil, on 14 April 1920.

LL.B., Law School of the University of Minas Gerais.

Master in Civil Law, McGill University, Montreal, Canada.

Member of the Brazilian Society of International Law. Member of the Institute of International Law. Member of the Permanent Court of Arbitration.

Entered the Brazilian diplomatic service in 1945. Permanent Representative in Geneva (1960-1961). Ambassador to Canada (1961). Ambassador to Switzerland (1963-1964). Permanent Representative to the United Nations (1964-1968). Ambassador to Czechoslovakia (1972-1979).

Head of the Brazilian delegation to the nineteenth, twentieth and twenty-first sessions of the General Assembly. Representative in the Security Council (1964 and 1967-1969). Delegate to the Sixth Committee of the General Assembly (1970-1978).

Elected Member of the International Law Commission to complete Gilberto Amado's mandate (1970). Elected Member of the International Law Commission by the General Assembly for the periods 1971-1976 and 1977-1982. General Rapporteur, Vice-Chairman and Chairman of the International Law Commission.

President of the United Nations Conference on the Representation of States in their Relations with International Organizations, Vienna (1975). Head of the Brazilian delegation to the United Nations Conference on Succession of States in Respect of Treaties. President of the ILO Commission of Enquiry on the Application of Labour Conventions in Nicaragua (November 1990).

Member of the International Court of Justice from 6 February 1979 to 11 September 1992; Vice-President of the Court from 1982-1985; continued to sit after 5 February 1988 as President of the Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* (1986-1992).

Author of various publications on international law and international problems, including: *The Ratification of International Treaties*, 1949; "A Doutrina Larreta", *Boletim da Sociedade Brasileira de Direito Internacional*, 1946; "Hans Kelsen e os Fundamentos do Direito Internacional", *Boletim da Sociedade Brasileira de Direito Internacional*, 1947; "United Nations and International Law Making: the Vienna Convention on the Representation of States in Their Relations with International Organizations", *UN Law/Fundamental Rights*, edited by Antonio Cassese, 1979; "Pollution of International Rivers" in the *Recueil des cours* of the Academy of International Law, The Hague, 1984; "The International Law Commission: Discourse on Method", *International Law at the Time of Its Codification. Essays in Honour of Roberto Ago*, Milan, 1987; "A conclusão de Tratados Internacionais e o Direito Constitucional Brasileiro", *Boletim da Sociedade Brasileira de Direito Internacional*, 1990; "Methods of Obligatory Settlement of Disputes", *International Law: Achievements and Prospects*, Paris/Dordrecht, 1991.

Judge *ad hoc* Elihu LAUTERPACHT

(Judge *ad hoc* in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro)*)

Born in London, on 13 July 1928.

Cambridge University, B.A. (1949); L.L.M. (1950); Whewell Scholar in International Law (1950).

Director of the Research Centre for International Law, University of Cambridge.

Fellow of Trinity College, Cambridge.

Barrister (1950); Queen's Counsel (1970); Bencher of Gray's Inn.

Commander of the British Empire (C.B.E.) (1989).

Legal Adviser of the Australian Department of Foreign Affairs (1975-1977); deputy leader of the Australian delegation to the United Nations General Assembly (1975-1977); deputy leader of the Australian delegation to the United Nations Law of the Sea Conference (1975-1977).

Counsel or advocate in numerous cases before the International Court of Justice, the European Commission of Human Rights, the Iran-United States Claims Tribunal, various international arbitral tribunals and national courts; counsel and adviser to many Governments and corporations.

Member of the Panel of Arbitrators of the International Centre for the Settlement of Investment Disputes (since 1974); Member of the Panel of Arbitrators of the Dispute Settlement Centre of the International Energy Agency (since 1980).

Chairman of the East African Common Market Tribunal (1972-1975); Member (since 1979) and Vice-President (since 1992) of the World Bank Administrative Tribunal; Chairman of the Asian Development Bank Administrative Tribunal (since 1992).

Member of the Institute of International Law; Honorary Member of the American Society of International Law.

Director, English-speaking Section, Research Centre of the Hague Academy of International Law (1959 and 1960); delivered course of lectures at the Hague Academy of International Law (1976), on "The Development of the Law of International Organizations by the Decisions of International Tribunals".

Editor of the *International Law Reports* (since 1960) and of many other collections of materials.

Publications include *Aspects of the Administration of International Justice* (1991); *Jerusalem and the Holy Places* (1968); and many articles.

CHAPTER III

JURISDICTION OF THE COURT

I. JURISDICTION IN CONTENTIOUS CASES

It is the function of the International Court of Justice to decide in accordance with international law such disputes as are submitted to it (Statute, Art. 38, para. 1). Its jurisdiction in this respect is defined in Article 93 of the Charter of the United Nations and in Articles 34-37 of the Statute of the Court.

1. States Entitled to Appear before the Court

Article 34, paragraph 1, of the Statute provides that: "Only States may be parties in cases before the Court." Private persons are therefore not entitled to institute proceedings before the Court.

A State entitled to appear before the Court may fall into one of three categories:

(a) *States Members of the United Nations*

Article 35, paragraph 1, of the Statute provides that the Court shall be open to the States parties to the Statute, and Article 93, paragraph 1, of the Charter of the United Nations provides that all Members of the United Nations are *ipso facto* parties to the Statute.

On 31 July 1993 the following 183 States were Members of the United Nations:

State	*Date of Admission*
Afghanistan	19 November 1946
Albania	14 December 1955
Algeria	8 October 1962
Angola	1 December 1976
Antigua and Barbuda	11 November 1981
Argentina	Original Member
Armenia	2 March 1992
Australia	Original Member
Austria	14 December 1955
Azerbaijan	2 March 1992
Bahamas	18 September 1973
Bahrain	21 September 1971
Bangladesh	17 September 1974
Barbados	9 December 1966

State	*Date of Admission*
Belarus	Original Member
Belgium	" "
Belize	25 September 1981
Benin	20 September 1960
Bhutan	21 September 1971
Bolivia	Original Member
Bosnia and Herzegovina	22 May 1992
Botswana	17 October 1966
Brazil	Original Member
Brunei Darussalam	21 September 1984
Bulgaria	14 December 1955
Burkina Faso	20 September 1960
Burundi	18 September 1962
Cambodia	14 December 1955
Cameroon	20 September 1960
Canada	Original Member
Cape Verde	16 September 1975
Central African Republic	20 September 1960
Chad	" "
Chile	Original Member
China	" "
Colombia	" "
Comoros	12 November 1975
Congo	20 September 1960
Costa Rica	Original Member
Côte d'Ivoire	20 September 1960
Croatia	22 May 1992
Cuba	Original Member
Cyprus	20 September 1960
Czech Republic	19 January 1993
Democratic People's Republic of Korea	17 September 1991
Denmark	Original Member
Djibouti	20 September 1977
Dominica	18 December 1978
Dominican Republic	Original Member
Ecuador	" "
Egypt	" "
El Salvador	" "
Equatorial Guinea	12 November 1968
Eritrea	28 May 1993
Estonia	17 September 1991
Ethiopia	Original Member
Federated States of Micronesia	17 September 1991
Fiji	13 October 1970
Finland	14 December 1955
France	Original Member

State	*Date of Admission*
Gabon	20 September 1960
Gambia	21 September 1965
Georgia	31 July 1992
Germany	18 September 1973
Ghana	8 March 1957
Greece	Original Member
Grenada	17 September 1974
Guatemala	Original Member
Guinea	12 December 1958
Guinea-Bissau	17 September 1974
Guyana	20 September 1966
Haiti	Original Member
Honduras	" "
Hungary	14 December 1955
Iceland	19 November 1946
India	Original Member
Indonesia	28 September 1950
Iran (Islamic Republic of)	Original Member
Iraq	" "
Ireland	14 December 1955
Israel	11 May 1949
Italy	14 December 1955
Jamaica	18 September 1962
Japan	18 December 1956
Jordan	14 December 1955
Kazakhstan	2 March 1992
Kenya	16 December 1963
Kuwait	14 May 1963
Kyrgyzstan	2 March 1992
Lao People's Democratic Republic	14 December 1955
Latvia	17 September 1991
Lebanon	Original Member
Lesotho	17 October 1966
Liberia	Original Member
Libyan Arab Jamahiriya	14 December 1955
Liechtenstein	18 September 1990
Lithuania	17 September 1991
Luxembourg	Original Member
Macedonia	7 April 1993
Madagascar	20 September 1960
Malawi	1 December 1964
Malaysia	17 September 1957
Maldives	21 September 1965
Mali	28 September 1960
Malta	1 December 1964
Marshall Islands	17 September 1991

State	*Date of Admission*
Mauritania	27 October 1961
Mauritius	24 April 1968
Mexico	Original Member
Moldova	2 March 1992
Monaco	28 May 1993
Mongolia	27 October 1961
Morocco	12 November 1956
Mozambique	16 September 1975
Myanmar	19 April 1948
Namibia	23 April 1990
Nepal	14 December 1955
Netherlands	Original Member
New Zealand	.. ..
Nicaragua	.. ..
Niger	20 September 1960
Nigeria	7 October 1960
Norway	Original Member
Oman	7 October 1971
Pakistan	30 September 1947
Panama	Original Member
Papua New Guinea	10 October 1975
Paraguay	Original Member
Peru	.. ..
Philippines	.. ..
Poland	.. ..
Portugal	14 December 1955
Qatar	21 September 1971
Republic of Korea	17 September 1991
Romania	14 December 1955
Russian Federation	Original Member
Rwanda	18 September 1962
St. Kitts and Nevis	23 September 1983
St. Lucia	18 September 1979
St. Vincent and the Grenadines	16 September 1980
Samoa	15 December 1976
San Marino	2 March 1992
Sao Tome and Principe	16 September 1975
Saudi Arabia	Original Member
Senegal	28 September 1960
Seychelles	21 September 1976
Sierra Leone	27 September 1961
Singapore	21 September 1965
Slovakia	19 January 1993
Slovenia	22 May 1992
Solomon Islands	19 September 1978
Somalia	20 September 1960

State	*Date of Admission*
South Africa	Original Member
Spain	14 December 1955
Sri Lanka	" "
Sudan	12 November 1956
Suriname	4 December 1975
Swaziland	24 September 1968
Sweden	19 November 1946
Syrian Arab Republic	Original Member
Tajikistan	2 March 1992
Thailand	16 December 1946
Togo	20 September 1960
Trinidad and Tobago	18 September 1962
Tunisia	12 November 1956
Turkey	Original Member
Turkmenistan	2 March 1992
Uganda	25 October 1962
Ukraine	Original Member
United Arab Emirates	9 December 1971
United Kingdom of Great Britain and Northern Ireland	Original Member
United Republic of Tanzania	14 December 1961
United States of America	Original Member
Uruguay	" "
Uzbekistan	2 March 1992
Vanuatu	15 September 1981
Venezuela	Original Member
Viet Nam	20 September 1977
Yemen	30 September 1947
Yugoslavia	Original Member
Zaire	20 September 1960
Zambia	1 December 1964
Zimbabwe	25 August 1980

(b) *States, not members of the United Nations, parties to the Statute*[1]

Article 93, paragraph 2, of the Charter of the United Nations provides that States which are not members of the United Nations may become parties to the Statute of the Court on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

The conditions laid down have hitherto been the same in each case. They were laid down for the first time as a result of a request by the Swiss

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[1] The full text of the resolutions referred to in this section is given on pages 175-183 of *I.C.J. Acts and Documents No. 5.*

Federal Council; on that occasion the General Assembly, on 11 December 1946, adopted resolution 91 (I) which prescribed the following conditions:

> "*(a)* Acceptance of the provisions of the Statute of the International Court of Justice;
>
> *(b)* Acceptance of all the obligations of a Member of the United Nations under Article 94 of the Charter;
>
> *(c)* An undertaking to contribute to the expenses of the Court such equitable amount as the General Assembly shall assess from time to time after consultation with the Swiss Government."[1]

The date on which the State concerned becomes a party to the Statute is that of the deposit with the Secretary-General of the United Nations of the instrument of acceptance of the conditions.

Pursuant to Article 4, paragraph 3, of the Statute, the conditions on which such a State may participate in the election of Members of the Court were laid down in resolution 264 (III) adopted by the General Assembly, upon the recommendation of the Security Council, on 8 October 1948. The operative part of this resolution lays down that:

> "1. Such a State shall be on an equal footing with the Members of the United Nations in respect to those provisions of the Statute which regulate the nominations of candidates for election by the General Assembly.
>
> 2. Such a State shall participate, in the General Assembly, in electing the members of the Court in the same manner as the Members of the United Nations.
>
> 3. Such a State, when in arrears in the payment of its contribution to the expenses of the Court, shall not participate in electing the members of the Court in the General Assembly if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a State to participate in the elections if it is satisfied that the failure to pay is due to conditions beyond the control of that State (see Charter, Article 19)."

The participation of such States in the procedure for amending the Statute of the Court (Charter, Art. 108; Statute, Art. 69) is governed by the following provisions of resolution 2520 (XXIV) adopted by the General Assembly, upon the recommendation of the Security Council, on 4 December 1969:

> "*(a)* A State which is a party to the Statute of the International Court of Justice, but is not a Member of the United Nations, may participate in the General Assembly in regard to amendments to the Statute in the same manner as the Members of the United Nations;
>
> *(b)* Amendments to the Statute of the International Court of Jus-

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[1] See below, Chap. VIII, p. 283.

tice shall come into force for all States which are parties to the Statute when they have been adopted by a vote of two-thirds of the States which are parties to the Statute and ratified in accordance with their respective constitutional processes by two-thirds of the States which are parties to the Statute and in accordance with the provisions of Article 69 of the Statute and Article 108 of the Charter of the United Nations."

The following States not members of the United Nations are at present parties to the Statute[1]:

State	*Resolution of the General Assembly*	*Deposit of the instrument of acceptance*
Nauru	42/21, 18 November 1987	29 January 1988
Switzerland	91 (I), 11 December 1946	28 July 1948

(c) *States, not parties to the Statute, to which the Court may be open*

The Court, which is open to States parties to the Statute, is also open to other States, in accordance with Article 35, paragraph 2, of the Statute[2]. This Article provides that the conditions upon which the Court shall be open to such States shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

On 15 October 1946, the Security Council adopted resolution 9 (1946) which reads as follows:

> "The Security Council
>
> In virtue of the powers conferred upon it by Article 35, paragraph 2, of the Statute of the International Court of Justice and subject to the provisions of that Article,
>
> Resolves that:
>
> 1. The International Court of Justice shall be open to a State which is not a party to the Statute of the International Court of Justice, upon the following condition, namely, that such State shall previously have deposited with the Registrar of the Court a declaration by which it accepts the jurisdiction of the Court, in accordance with the Charter of the United Nations and with the terms and subject to the conditions of the Statute and Rules of the Court, and undertakes to comply in good faith with the decision or decisions of the Court and to accept all the obligations of a Member of the United Nations under Article 94 of the Charter;

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[1] Before becoming Members of the United Nations, Japan, Liechtenstein and San Marino were parties to the Statute of the Court, as from 2 April 1954, 29 March 1950 and 18 February 1954 respectively.

[2] See also Rules, Art. 26, para. 1 *(c)*, and Art. 41, and below, Chap. VIII, p. 283.

> 2. Such declaration may be either particular or general. A particular declaration is one accepting the jurisdiction of the Court in respect only of a particular dispute or disputes which have already arisen. A general declaration is one accepting the jurisdiction generally in respect of all disputes or of a particular class or classes of disputes which have already arisen or which may arise in the future. A State, in making such a general declaration, may, in accordance with Article 36, paragraph 2, of the Statute, recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Court, provided, however, that such acceptance may not, without explicit agreement, be relied upon vis-à-vis States parties to the Statute which have made the declaration in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice;
>
> 3. The original declarations made under the terms of this resolution shall be kept in the custody of the Registrar of the Court, in accordance with the practice of the Court. Certified true copies thereof shall be transmitted, in accordance with the practice of the Court, to all States parties to the Statute of the International Court of Justice, and to such other States as shall have deposited a declaration under the terms of this resolution, and to the Secretary-General of the United Nations;
>
> 4. The Security Council reserves the right to rescind or amend this resolution by a resolution which shall be communicated to the Court, and on the receipt of such communication and to the extent determined by the new resolution, existing declarations shall cease to be effective except in regard to disputes which are already before the Court;
>
> 5. All questions as to the validity or the effect of a declaration made under the terms of this resolution shall be decided by the Court."

In the past, particular declarations have been filed by Albania (1947) and by Italy (1953), and general declarations by Cambodia (1952), Ceylon (1952), the Federal Republic of Germany (1955, 1956, 1961, 1965 and 1971), Finland (1953 and 1954), Italy (1955), Japan (1951), Laos (1952), and the Republic of Viet Nam (1952).

2. *Basis of the Court's Jurisdiction*

The jurisdiction of the Court in contentious proceedings is based on the consent of the States to which it is open[1]. The form in which this consent is expressed determines the manner in which a case may be brought before the Court.

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[1] In the following eight cases, the Court found that it could take no further steps upon an Application in which it was admitted that the opposing party did not accept its jurisdiction: *Treatment in Hungary of Aircraft and Crew of United States of America* (*United States of America* v. *Hungary*) (*United States of America* v. *USSR*); *Aerial Incident of 10 March 1953* (*United States of America* v. *Czechoslovakia*); *Antarctica* (*United Kingdom* v. *Argentina*) (*United Kingdom* v. *Chile*); *Aerial Incident of 7 October 1952* (*United States of America* v. *USSR*); *Aerial Incident of 4 September 1954* (*United States of America* v. *USSR*); *Aerial Incident of 7 November 1954* (*United States of America* v. *USSR*).

(a) *Special agreement*

Article 36, paragraph 1, of the Statute provides that the jurisdiction of the Court comprises all cases which the parties refer to it. Such cases normally come before the Court by notification to the Registry of an agreement known as a *special agreement* and concluded by the parties specially for this purpose[1]. The subject of the dispute and the parties must be indicated (Statute, Art. 40, para. 1; Rules, Art. 39).

(b) *Cases provided for in treaties and conventions*

Article 36, paragraph 1, of the Statute provides also that the jurisdiction of the Court comprises all matters specially provided for in treaties and conventions in force. In such cases a matter is normally brought before the Court by means of a written *application instituting proceedings*; this is a unilateral document which must indicate the subject of the dispute and the parties (Statute, Art. 40, para. 1) and, as far as possible, specify the provision on which the applicant founds the jurisdiction of the Court (Rules, Art. 38).

A list of treaties and conventions governing the jurisdiction of the International Court of Justice in contentious cases is given in Chapter IV (Sec. III) of the present *Yearbook* (pp. 113-131). Furthermore, some of the agreements and conventions mentioned in Section I of Chapter IV (pp. 68-73) relate, in particular, to the jurisdiction of the Court in contentious proceedings.

To these instruments must be added other treaties and conventions concluded earlier and conferring jurisdiction upon the *Permanent Court of International Justice*, for Article 37 of the Statute of the International Court of Justice stipulates that whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the *Permanent Court of International Justice*, the matter shall, as between the parties to the Statute, be referred to the International Court of Justice. The *Permanent Court* reproduced, in 1932, in its *Collection of Texts governing the Jurisdiction of the Court* (*P.C.I.J., Series D, No. 6*, fourth edition) and subsequently in Chapter X of its *Annual Reports (P.C.I.J., Series E, Nos. 8-16)* the relevant provisions of the instruments governing its jurisdiction. By virtue of the Article referred to above, some of these provisions now govern the jurisdiction of the International Court of Justice.

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[1] The following 12 cases were submitted to the Court by means of special agreements: *Asylum (Colombia/Peru)*; *Minquiers and Ecrehos (France/United Kingdom)*; *Sovereignty over Certain Frontier Land (Belgium/Netherlands)*; *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*; *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*; *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* (case referred to a Chamber); *Continental Shelf (Libyan Arab Jamahiriya/Malta)*; *Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)* (case referred to a Chamber); *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*; *Gabčikovo-Nagymaros Project (Hungary/Slovakia)*. In the *Corfu Channel (United Kingdom* v. *Albania)* case the Parties made a special agreement after delivery of the Judgment on the Preliminary Objection. The case concerning the *Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras* v. *Nicaragua)* was submitted by means of an application, but the Parties had previously concluded an agreement on the procedure to be followed in submitting the dispute to the Court.

(c) *Compulsory jurisdiction in legal disputes*

The Statute provides that a State may recognize as compulsory, in relation to any other State accepting the same obligation, the jurisdiction of the Court in legal disputes. These cases are brought before the Court by means of written applications. The conditions on which such compulsory jurisdiction may be recognized are stated in paragraphs 2-5 of Article 36 of the Statute, which read as follows:

> "2. The States parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
>
> *(a)* the interpretation of a treaty;
>
> *(b)* any question of international law;
>
> *(c)* the existence of any fact which, if established, would constitute a breach of an international obligation;
>
> *(d)* the nature or extent of the reparation to be made for the breach of an international obligation.
>
> 3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time.
>
> 4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.
>
> 5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms."

Texts of declarations accepting the compulsory jurisdiction of the Court are given in Section II of Chapter IV below (pp. 74-113).

(d) *The Court itself decides any question as to its jurisdiction*

Article 36, paragraph 6, of the Statute provides that in the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court. Article 79 of the Rules lays down the conditions which govern the filing of preliminary objections[1].

(e) *Interpretation of a judgment*

Article 60 of the Statute provides that in the event of dispute as to the meaning or scope of a judgment, the Court shall construe it upon the request of any party. The request for interpretation may be made either by means of a special agreement between the parties or of an application by one or more of the parties (Rules, Art. 98)[2].

(f) *Revision of a judgment*

An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such party's ignorance was not due to negligence (Statute, Art. 61, para. 1). A request for revision is made by means of an application (Rules, Art. 99)[1].

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[1] Preliminary objections were raised in the following 21 cases: *Corfu Channel* (*United Kingdom* v. *Albania*); *Rights of Nationals of the United States of America in Morocco* (*France* v. *United States of America*); *Ambatielos* (*Greece* v. *United Kingdom*); *Anglo-Iranian Oil Co.* (*United Kingdom* v. *Iran*); *Nottebohm* (*Liechtenstein* v. *Guatemala*); *Monetary Gold Removed from Rome in 1943* (*Italy* v. *France, United Kingdom and United States of America*); *Certain Norwegian Loans* (*France* v. *Norway*); *Right of Passage over Indian Territory* (*Portugal* v. *India*); *Interhandel* (*Switzerland* v. *United States of America*); *Aerial Incident of 27 July 1955* (*Israel* v. *Bulgaria*) (*United States of America* v. *Bulgaria*); *Barcelona Traction, Light and Power Company, Limited* (*Belgium* v. *Spain*); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient* (*France* v. *Lebanon*); *Temple of Preah Vihear* (*Cambodia* v. *Thailand*); *South West Africa* (*Ethiopia* v. *South Africa; Liberia* v. *South Africa*); *Northern Cameroons* (*Cameroon* v. *United Kingdom*); *Barcelona Traction, Light and Power Company, Limited* (*New Application: 1962*) (*Belgium* v. *Spain*); *Elettronica Sicula S.p.A.* (*ELSI*) (*United States of America* v. *Italy*); *Aerial Incident of 3 July 1988* (*Islamic Republic of Iran* v. *United States of America*); *Certain Phosphate Lands in Nauru* (*Nauru* v. *Australia*). Questions of jurisdiction or admissibility have also been raised in the following 12 cases: *Appeal Relating to the Jurisdiction of the ICAO Council* (*India* v. *Pakistan*); *Fisheries Jurisdiction* (*United Kingdom* v. *Iceland; Federal Republic of Germany* v. *Iceland*); *Nuclear Tests* (*Australia* v. *France; New Zealand* v. *France*); *Trial of Pakistani Prisoners of War* (*Pakistan* v. *India*); *Aegean Sea Continental Shelf* (*Greece* v. *Turkey*); *United States Diplomatic and Consular Staff in Tehran* (*United States of America* v. *Iran*); *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua* v. *United States of America*); *Border and Transborder Armed Actions* (*Nicaragua* v. *Honduras*); *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*Qatar* v. *Bahrain*); *East Timor* (*Portugal* v. *Australia*).

[2] An application for interpretation of the Judgment was made by Colombia in respect of the *Asylum* (*Colombia/Peru*) case. Cf. note 1, p. 66, below.

II. ADVISORY JURISDICTION

The advisory jurisdiction of the Court is governed by Article 65 of the Statute and Article 96 of the Charter of the United Nations.

By virtue of Article 65 of the Statute, the Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request. An exact statement of the questions upon which the advisory opinion is asked must be contained in a *request for an advisory opinion*.

Article 96, paragraph 1, of the Charter provides that advisory opinions may be asked of the Court by the General Assembly or the Security Council on any legal question. Paragraph 2 of this Article adds:

> "Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

The following organs and agencies are at present authorized to request advisory opinions[2]:

United Nations:

General Assembly[3],
Security Council[4],

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[1] An application for revision and interpretation of the Judgment was filed by Tunisia in respect of the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

[2] The International Refugee Organization, which had been authorized to request advisory opinions of the Court, ceased to exist in 1952. The Havana Charter for an International Trade Organization, which provides for the jurisdiction of the Court in proceedings in regard to advisory opinions, has not entered into force.

[3] The General Assembly has requested 13 advisory opinions of the Court in the following 12 cases: *Conditions of Admission of a State to Membership in the United Nations (Article 4 of Charter); Reparation for Injuries Suffered in the Service of the United Nations; Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase;* id., *Second Phase; Competence of the General Assembly for the Admission of a State to the United Nations; International Status of South West Africa; Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide; Effect of Awards of Compensation Made by the United Nations Administrative Tribunal; Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South West Africa; Admissibility of Hearings of Petitioners by the Committee on South West Africa; Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter); Western Sahara; Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947.*

[4] The Security Council requested an advisory opinion of the Court concerning the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970).*

  Economic and Social Council[1],
  Trusteeship Council,
  Interim Committee of the General Assembly,
  Committee on Applications for Review of Administrative Tribunal Judgements[2];
International Labour Organisation;
Food and Agriculture Organization of the United Nations;
United Nations Educational, Scientific and Cultural Organization[3];
World Health Organization[4];
International Bank for Reconstruction and Development;
International Finance Corporation;
International Development Association;
International Monetary Fund;
International Civil Aviation Organization;
International Telecommunication Union;
International Fund for Agricultural Development;
World Meteorological Organization;
International Maritime Organization[5];
World Intellectual Property Organization;
United Nations Industrial Development Organization;
International Atomic Energy Agency.

In Section I of Chapter IV of the present *Yearbook* (pp. 68-73) will be found references to the instruments by virtue of which such requests may be submitted by the above organs and agencies.

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[1] The Economic and Social Council requested an advisory opinion of the Court in the case concerning the *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations.*

[2] The Committee on Applications for Review of Administrative Tribunal Judgements requested an advisory opinion in the following three cases: *Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal; Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal; Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal.*

[3] The Executive Board of Unesco requested an advisory opinion of the Court concerning *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco.*

[4] The World Health Assembly requested an advisory opinion of the Court concerning *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt.*

[5] The Assembly of this organization requested an advisory opinion of the Court concerning the *Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization.*

CHAPTER IV

TEXTS GOVERNING THE JURISDICTION OF THE COURT

The present chapter, which is compiled from the information available to the Registry, presents a compendium of instruments governing the jurisdiction of the Court. It takes into account, so far as the Registry is informed of them, any amendments to those instruments which have affected their provisions concerning the jurisdiction of the Court. The inclusion or omission of any instrument should not be regarded as an indication of any view entertained by the Registry, or *a fortiori* by the Court, regarding the nature, scope or validity of the instrument in question.

I. INSTRUMENTS GOVERNING THE RELATIONSHIP OF ORGANS OF THE UNITED NATIONS AND INTERNATIONAL ORGANIZATIONS WITH THE COURT

This section lists provisions for the contentious or advisory jurisdiction of the Court in the following categories of instruments: constitutional texts of public international organizations; agreements concluded between the United Nations and other international organizations; authorizations accorded by the General Assembly of the United Nations to other organs of the United Nations or to international organizations by virtue of Article 96, paragraph 2, of the Charter; multilateral conventions relating to the privileges and immunities of world-wide international organizations; agreements concluded by international organizations with States.

1. United Nations

Authorization to the *General Assembly* and the *Security Council* to request advisory opinions of the International Court of Justice: Charter, Article 96, paragraph 1.

Authorization to the *Economic and Social Council* to request advisory opinions of the International Court of Justice: resolution 89 (I) of the General Assembly, 11 December 1946.

Authorization to the *Trusteeship Council* to request advisory opinions of the International Court of Justice: resolution 171 (II) of the General Assembly, 14 November 1947, paragraph B.

Authorization to the *Interim Committee of the General Assembly* to request advisory opinions of the International Court of Justice: resolution 196 (III) of the General Assembly, 3 December 1948, paragraph 3[1].

Authorization to the *Committee on Applications for Review of Judgements of the United Nations Administrative Tribunal* to request advisory opinions of the International Court of Justice: Statute of the United Nations Administrative Tribunal, as amended by resolution 957 (X) of the General Assembly, 8 November 1955, Article 11[2].

Convention on the privileges and immunities of the United Nations, adopted by the General Assembly on 13 February 1946, Article VIII, Section 30 (United Nations, *Treaty Series*, I, No. 4, Vol. 1).

Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, 26 June 1947, Article VIII, Section 21 (United Nations, *Treaty Series*, I, No. 147, Vol. 11).

Agreement between Chile and the United Nations Economic Commission for Latin America regulating conditions for the operation, in Chile, of the Headquarters of the Commission, 16 February 1953, Article XI, Section 21 (United Nations, *Treaty Series*, I, No. 4541, Vol. 314).

Agreement between the United Nations and Thailand relating to the Headquarters of the Economic Commission for Asia and the Far East in Thailand, 26 May 1954, Article XIII, Section 26 (United Nations, *Treaty Series*, I, No. 3703, Vol. 260).

Agreement between the United Nations and Ethiopia regarding the Headquarters of the United Nations Economic Commission for Africa, 18 June 1958, Article IX (United Nations, *Treaty Series*, I, No. 4597, Vol. 317).

Agreement between the United Nations and Japan regarding the Headquarters of the United Nations University, 14 May 1976, Section 22 (United Nations, *Treaty Series*, I, No. 14839, Vol. 1009).

2. All Specialized Agencies

Convention on the privileges and immunities of the specialized agencies, approved by the General Assembly of the United Nations on 21 November 1947, Article VII, Section 24, and Article IX, Section 32 (United Nations, *Treaty Series*, I, No. 521, Vol. 33).

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[1] The mandate of the Interim Committee was extended indefinitely by resolution 295 (IV) of the General Assembly of 21 November 1949, paragraph 3 of which preserved its authority to request advisory opinions of the Court.

[2] Article not applicable to Judgements concerning the staff of the International Civil Aviation Organization or Inter-Governmental Maritime Consultative Organization (now International Maritime Organization), which have both, however, accepted the jurisdiction of the United Nations Administrative Tribunal.

3. International Labour Organisation

Instrument for the amendment of the Constitution of the International Labour Organisation, 9 October 1946, Articles 29, 31-34 and 37 (United Nations, *Treaty Series*, I, No. 229, Vol. 15).

Agreement between the United Nations and the International Labour Organisation, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 9, Vol. 1).

Statute of the Administrative Tribunal of the International Labour Organisation, adopted by the International Labour Conference on 9 October 1946 and modified by the Conference on 29 June 1949, Article XII[1].

4. Food and Agriculture Organization of the United Nations

Constitution of the Food and Agriculture Organization of the United Nations, 16 October 1945, as amended in 1957, Article XVII (Food and Agriculture Organization of the United Nations, *Basic Texts*, Vol. I, 1968).

Agreement between the United Nations and the Food and Agriculture Organization of the United Nations, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 10, Vol. 1).

Terms of appointment of the Director-General of the Food and Agriculture Organization of the United Nations: recommendation by the Conference of the Organization, 27 October 1945, paragraph 3 (Food and Agriculture Organization of the United Nations, *Report of the First Session of the Conference*, 16 October-1 November 1945).

5. United Nations Educational, Scientific and Cultural Organization

Constitution of the United Nations Educational, Scientific and Cultural Organization, 16 November 1945, Articles V, paragraph 11 (adopted in

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[1] The jurisdiction of this Tribunal, which is open to officials of the International Labour Organisation or other persons claiming under the terms of appointment of an official, has been recognized also by the following international organizations, which are authorized to request advisory opinions: Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization; World Health Organization; International Telecommunication Union; World Meteorological Organization; World Intellectual Property Organization; International Atomic Energy Agency.

1952), and XIV, paragraph 2 (United Nations, *Treaty Series*, I, No. 52, Vol. 4)[1].

Agreement between the United Nations and the United Nations Educational, Scientific and Cultural Organization, approved by the General Assembly of the United Nations on 14 December 1946, as revised and approved by the General Assembly of the United Nations on 8 December 1962, Article X[2] (United Nations, *Treaty Series*, II, No. 11, Vol. 1; *ibid.*, General Assembly, resolution 1786 (XVII)).

Agreement between the United Nations Educational, Scientific and Cultural Organization and France regarding the Headquarters of Unesco and the privileges and immunities of the Organization on French territory, 2 July 1954, Article 29 (United Nations, *Treaty Series*, I, No. 5103, Vol. 357).

6. World Health Organization

Constitution of the World Health Organization, 22 July 1946, Articles 75-77 (United Nations, *Treaty Series*, I, No. 221, Vol. 14).

Agreement between the United Nations and the World Health Organization, approved by the General Assembly of the United Nations on 15 November 1947, Article X (United Nations, *Treaty Series*, II, No. 115, Vol. 19).

7. International Bank for Reconstruction and Development, International Finance Corporation and International Development Association

Agreement between the United Nations and the International Bank for Reconstruction and Development, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 109, Vol. 16).

Agreement on relationship between the United Nations and the International Finance Corporation, approved by the General Assembly of the United Nations on 20 February 1957, paragraph 1 (United Nations, *Treaty Series*, II, No. 546, Vol. 265).

Agreement on relationship between the United Nations and the International Development Association, approved by the General Assembly of the United Nations on 27 March 1961, Article I (United Nations, *Treaty Series*, II, No. 582, Vol. 394).

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[1] See also Rules of Procedure of the General Conference of Unesco, Rule 33, and the Protocol of 10 December 1962 instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States parties to the Convention against Discrimination in Education, Article 18 (Unesco document 12C/Resolutions).

[2] Article XI before the revision of 1962.

8. International Monetary Fund

Agreement between the United Nations and the International Monetary Fund, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 108, Vol. 16).

9. International Civil Aviation Organization

Convention on International Civil Aviation, 7 December 1944, Articles 84-86 (United Nations, *Treaty Series*, I, No. 10612, Vol. 740; ICAO, *Convention on International Civil Aviation*, 1969).

Agreement between the United Nations and the International Civil Aviation Organization, approved by the General Assembly of the United Nations on 14 December 1946, Article X (United Nations, *Treaty Series*, II, No. 45, Vol. 8).

Agreement between the International Civil Aviation Organization and Canada regarding the Headquarters of the Organization, 14 April 1951, Article VII, Section 31 (United Nations, *Treaty Series*, I, No. 1335, Vol. 96).

10. International Telecommunication Union

Agreement between the United Nations and the International Telecommunication Union, approved by the General Assembly of the United Nations on 15 November 1947, Article VII (United Nations, *Treaty Series*, II, No. 175, Vol. 30).

11. World Meteorological Organization

Agreement between the United Nations and the World Meteorological Organization, approved by the General Assembly of the United Nations on 20 December 1951, Article VII (United Nations, *Treaty Series*, II, No. 415, Vol. 123).

12. International Maritime Organization

Convention on the Inter-Governmental Maritime Consultative Organization, 6 March 1948, entered into force on 17 March 1958, Articles 55 and 56 (United Nations, *Treaty Series*, I, No. 4214, Vol. 289)[1].

Agreement between the United Nations and the Inter-Governmental Maritime Consultative Organization, approved by the General Assembly of the United Nations on 18 November 1948, entered into force on 13 January 1959, Article IX (United Nations, *Treaty Series*, II, No. 553, Vol. 324).

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[1] As from 22 May 1982 the Inter-Governmental Maritime Consultative Organization (IMCO) became the International Maritime Organization (IMO); the name of the organization was changed in the title of the 1948 Convention and the relevant Articles of the Convention were re-numbered 69 and 70.

13. World Intellectual Property Organization

Agreement between the United Nations and the World Intellectual Property Organization, approved by the General Assembly of the United Nations on 17 December 1974, Article 12 (United Nations, *Treaty Series*, II, No. 729).

14. International Fund for Agricultural Development

Agreement between the United Nations and the International Fund for Agricultural Development, approved by the General Assembly of the United Nations on 15 December 1977, Article XIII (United Nations, *Treaty Series*, II, No. 806, Vol. 1080).

15. United Nations Industrial Development Organization

Constitution of the United Nations Industrial Development Organization, 8 April 1979, Article 22.

Agreement between the United Nations Organization and the United Nations Industrial Development Organization, approved by the General Assembly of the United Nations on 17 December 1985, Article 12.

16. International Atomic Energy Agency

Statute of the International Atomic Energy Agency, 26 October 1956, Article XVII (United Nations, *Treaty Series*, I, No. 3988, Vol. 276).

Agreement concerning the relationship between the United Nations and the International Atomic Energy Agency, approved by the General Assembly of the United Nations on 14 November 1957, Article X (United Nations, *Treaty Series*, II, No. 548, Vol. 281).

Authorization to the International Atomic Energy Agency to request advisory opinions of the International Court of Justice: resolution 1146 (XII) of the General Assembly of the United Nations, 14 November 1957.

Agreement on the privileges and immunities of the International Atomic Energy Agency, approved by the Board of Governors of the Agency on 1 July 1959, Article X, Section 34 (United Nations, *Treaty Series*, I, No. 5334, Vol. 374).

Agreement between the International Atomic Energy Agency and Iraq, Lebanon, Libya, Tunisia, United Arab Republic, etc., for the establishment in Cairo of a Middle Eastern regional radio-isotope centre for the Arab countries, approved by the Board of Governors of the Agency on 14 September 1962, Article XVI (United Nations, *Treaty Series*, I, No. 7236, Vol. 494).

Nordic Mutual Emergency Assistance Agreement in connection with radiation accidents, signed on 17 October 1963 by the International Atomic Energy Agency, Denmark, Finland, Norway and Sweden, Article IX (United Nations, *Treaty Series*, I, No. 7585, Vol. 525).

II. DECLARATIONS RECOGNIZING AS COMPULSORY THE JURISDICTION OF THE COURT

The texts of declarations under Article 36, paragraph 2, of the Statute, which had not expired by effluxion of time, or whose withdrawal or replacement had not been notified by 31 July 1993, will be found below. The fact that a declaration is or is not included in this section, is without prejudice to its possible application by the Court in a particular case.

The declaration of Hungary was deposited with the Secretary-General of the United Nations during the 12 months under review, on 22 October 1992, and was the first such declaration made by that State.

In view of the provisions of Article 36, paragraph 5, of the Statute of the International Court of Justice, the present section also contains the texts of declarations made under the Statute of the *Permanent Court of International Justice* which have not lapsed or been withdrawn. There are now seven such declarations.

The declarations, deposited by a total of 56 States[1], are given here in English[2]. Where this is not the original language of the declaration, the translations used, except where otherwise indicated, are by the Secretariat of the United Nations or of the League of Nations.

The date shown after the name of the State is that on which the declaration was deposited.

AUSTRALIA

17 III 75.

Whereas on the first day of November one thousand nine hundred and forty-five Australia ratified the Charter of the United Nations of which the Statute of the International Court of Justice is an integral part; and

Whereas Australia made a declaration under paragraph 2 of Article 36, of the said Statute on the sixth day of February, one thousand nine hundred and fifty-four[3]; and

Whereas Australia desires to withdraw the said declaration;

The Government of Australia hereby withdraws the said declaration and declares for and on behalf of Australia that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to withdraw this declaration.

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[1] Since 1951, twelve other declarations relating to the jurisdiction of the International Court of Justice, either expressly or by virtue of Article 36, paragraph 5, of the Statute, have expired, been withdrawn or been terminated without being subsequently replaced. These were the declarations of the following States: Bolivia, Brazil, China, El Salvador, France, Guatemala, Iran, Israel, South Africa, Thailand, Turkey and the United States (United Nations, *Treaty Series*, I, No. 261, Vol. 16; I, No. 237, Vol. 15; I, No. 5, Vol. 1; *I.C.J. Yearbook 1987-1988*, pp. 70-72; United Nations, *Treaty Series*, I, No. 8196, Vol. 562; I, No. 12, Vol. 1; *I.C.J. Yearbook 1946-1947*, p. 211; *I.C.J. Yearbook 1984-1985*, pp. 79-80; United Nations, *Treaty Series*, I, No. 2935, Vol. 216; I, No. 844, Vol. 65; I, No. 50, Vol. 4; *I.C.J. Yearbook 1984-1985*, pp. 99-100).

[2] French texts of the declarations are given in the French counterpart of the *I.C.J. Yearbook*, the *C.I.J. Annuaire*.

[3] United Nations, *Treaty Series*, I, No. 2484, Vol. 186.

The Government of Australia further declares that this declaration does not apply to any dispute in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement.

In witness whereof, I, Edward Gough Whitlam, Prime Minister acting for and on behalf of the Minister of State for Foreign Affairs of Australia, have hereunto set my hand and affixed the seal of the Minister of State for Foreign Affairs.

Dated this thirteenth day of March, one thousand nine hundred and seventy-five.

(Signed) E. G. WHITLAM,
Prime Minister acting for and on
behalf of the Minister of State for
Foreign Affairs of Australia.

AUSTRIA

19 V 71.

I hereby declare that the Republic of Austria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute in respect of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

This Declaration shall remain in force for a period of five years and thereafter until it will be terminated or modified by a written declaration.

Done at Vienna on 28 April 1971.

(Signed) JONAS,
The Federal President.

In witness whereof the present declaration has been countersigned by the Federal Chancellor and the Minister for Foreign Affairs and the national seal of the Republic of Austria has been affixed thereto.

(Signed) Bruno KREISKY,
The Federal Chancellor.
(Signed) Rudolf KIRCHSCHLAEGER,
The Federal Minister for Foreign Affairs.

BARBADOS

1 VIII 80.

I have the honour to declare on behalf of the Government of Barbados that:

The Government of Barbados accepts as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court until such time as notice might be given to terminate the acceptance, over all disputes arising after the declaration is made, other than:

(a) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement,
(b) disputes with the government of any other country which is a Member of the Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree,
(c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Barbados,
(d) disputes arising out of or concerning jurisdiction or rights claimed or exercised by Barbados in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Barbados.

24 July 1980.

(Signed) H. de B. FORDE,
Minister of External Affairs.

BELGIUM[1]

[Translation from the French] 17 VI 58.

I declare on behalf of the Belgian Government that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in legal disputes arising after 13 July 1948 concerning situations or facts subsequent to that date, except those in regard to which the parties have agreed or may agree to have recourse to another method of pacific settlement.

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[1] Belgium had deposited in 1948 a declaration valid for five years (United Nations, *Treaty Series*, I, No. 260, Vol. 16).

This declaration is made subject to ratification[1]. It shall take effect on the day of deposit of the instrument of ratification for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Brussels, 3 April 1958.

(Signed) V. LAROCK,
Minister for Foreign Affairs.

BOTSWANA

16 III 70.

I, Sir Seretse Khama, President of the Republic of Botswana, have the honour to declare on behalf of the Government of the Republic of Botswana, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or

(b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Republic of Botswana.

The Government of the Republic of Botswana also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Done at Gaborone this 14th day of January in the year of our Lord one thousand nine hundred and seventy.

(Signed) Seretse M. KHAMA,
President.

BULGARIA

[Translation from the Bulgarian] 24 VI 1992.

On behalf of the Government of the Republic of Bulgaria, I have the honour to declare that in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice the Republic of Bulgaria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes arising out of facts and situations subsequent to or continuing to exist after the entry into force of the present Declaration, concerning:

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[1] The instrument of ratification was deposited on 17 June 1958.

1. the interpretation of a treaty;
2. any question of international law;
3. the existence of any fact which, if established, would constitute a breach of an international obligation;
4. the nature or extent of the reparation to be made for the breach of an international obligation,

except for disputes with any State which has accepted the compulsory jurisdiction of the International Court of Justice under Article 36, paragraph 2, of the Statute less than twelve months prior to filing an application bringing the dispute before the Court or where such acceptance has been made only for the purpose of a particular dispute.

The Republic of Bulgaria also reserves the right at any time to modify the present Declaration, the modifications taking effect six months after the deposit of the notification thereof.

The present Declaration shall be in force for a period of five years from the date of its deposit with the Secretary-General of the United Nations. It shall continue in force thereafter until six months after a notice of its denunciation is given to the Secretary-General of the United Nations.

Sofia, 26 May 1992.

(Signed) S. GANEV,
Minister of Foreign Affairs
of the Republic of Bulgaria.

CAMBODIA

[Translation from the French] 19 IX 57.

On behalf of the Royal Government of Cambodia I have the honour to declare that, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State Member of the United Nations accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the said Court in all legal disputes, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(2) disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Kingdom of Cambodia;

(3) disputes relating to any matter excluded from judicial settlement or compulsory arbitration by virtue of any treaty, convention or other international agreement or instrument to which the Kingdom of Cambodia is a party.

This declaration is valid for ten years from the date of its deposit. It shall remain in force thereafter until notice to the contrary has been given by the Royal Government of Cambodia.

Phnom-Penh, 9 September 1957.

(Signed) SIM VAR.

CANADA

10 IX 85.

On behalf of the Government of Canada,

(1) I give notice that I hereby terminate the acceptance by Canada of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 7 April 1970[1] in conformity with paragraph 2 of Article 36 of the Statute of that Court.

(2) I declare that the Government of Canada accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after the present declaration with regard to situations or facts subsequent to this declaration, other than:

(a) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(b) disputes with the Government of any other country which is a member of the Commonwealth, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

(c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Canada.

(3) The Government of Canada also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

It is requested that this notification may be communicated to the governments of all the States that have accepted the Optional Clause and to the Registrar of the International Court of Justice.

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[1] *I.C.J. Yearbook 1984-1985*, pp. 71-72.

New York, 10 September 1985.

(Signed) Stephen LEWIS,
Ambassador and
Permanent Representative.

COLOMBIA[1]

[Translation from the French] 30 X 37.

The Republic of Colombia recognizes as compulsory, *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the Permanent Court of International Justice, in accordance with Article 36 of the Statute.

The present declaration applies only to disputes arising out of facts subsequent to 6 January 1932.

Geneva, 30 October 1937.

(Signed) J. M. YEPES,
Legal Adviser of the Permanent Delegation
of Colombia to the League of Nations.

COSTA RICA

[Translation from the Spanish] 20 II 73.

The Government of Costa Rica recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes of the kinds referred to in Article 36, paragraph 2, of the Statute of the International Court of Justice. This Declaration shall be valid for a period of five years and shall be understood to be tacitly renewed for like periods, unless denounced before the expiration of the said period.

San José, 5 February 1973.

(Signed) Gonzalo J. FACIO,
Minister for Foreign Affairs.

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[1] An instrument of ratification was deposited on 30 October 1937. Ratification was not required under the terms of the Optional Clause, the act of signature itself sufficing to make the undertaking binding, except where the declaration has been made expressly subject to ratification. Nevertheless, certain States, which had signed without any such reservation, subsequently ratified their declarations.

CYPRUS

29 IV 88.

I have the honour on behalf of the Government of the Republic of Cyprus to declare, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, that the Republic of Cyprus accepts as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the Court, in relation to any other State accepting the same obligation, over all legal disputes concerning:

(a) the interpretation of any treaty –

  I. to which the Republic of Cyprus became a Party on or after 16 August 1960 or

  II. which the Republic of Cyprus recognizes as binding on it by succession;

(b) any question of international law;

(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

Provided that this declaration shall not apply:

(a) to disputes relating to questions which fall within the domestic jurisdiction of the Republic of Cyprus;

(b) where the declaration recognizing the compulsory jurisdiction of the International Court of Justice on behalf of any other Party to the dispute was deposited with the Secretary-General of the United Nations less than six months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Cyprus reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw this declaration or any of the foregoing reservations or any that may hereafter be added.

Nicosia, 19 April 1988.

(Signed) George IACOVOU,
Minister of Foreign Affairs.

DENMARK[1]

[Translation from the French] 10 XII 56.

In conformity with the Royal Decree of 3 December 1956, I have the honour, on behalf of the Danish Government, to make the following declaration:

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[1] This declaration replaced that of 10 December 1946, which had been made for a period of ten years as from that date (United Nations, *Treaty Series*, I, No. 10, Vol. 1).

Pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, the Kingdom of Denmark recognizes as compulsory *ipso facto* and without special agreement the jurisdiction of the Court in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, for a period of five years from 10 December 1956 and thereafter for further periods of five years, if this declaration is not denounced by notice of not less than six months before the expiration of any five-year period.

New York, 10 December 1956.

(Signed) Karl I. ESKELUND,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative
to the United Nations.

DOMINICAN REPUBLIC

[Translation from the French] 30 IX 24.

On behalf of the Government of the Dominican Republic and subj[illegible] to ratification[1], I recognize, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

Geneva, 30 September 1924.

(Signed) Jacinto R. DE CASTRO.

EGYPT

22 VII 57.

I, Mahmoud Fawzi, Minister for Foreign Affairs of the Republic of Egypt, declare on behalf of the Government of the Republic of Egypt, that, in accordance with Article 36 (2) of the Statute of the International Court of Justice and in pursuance and for the purposes of paragraph 9 *(b)* of the Declaration of the Government of the Republic of Egypt dated 24 April 1957, on "the Suez Canal and the arrangements for its operation"[1], the Government of the Republic of Egypt accept as compulsory *ipso facto*, on condition of reciprocity and without special agreement, the jurisdiction of the International Court of Justice in all legal disputes that may arise under the said paragraph 9 *(b)* of the above Declaration dated 24 April 1957, with effect as from that date.

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[1] The instrument of ratification was deposited on 4 February 1933.

18 July 1957.

(Signed) Mahmoud FAWZI.

ESTONIA

21 X 91.

I, Arnold Rüütel, Chairman of the Supreme Council of the Republic of Estonia, declare on behalf of the Republic of Estonia and in accordance with the Resolution of September 26, 1991 of the Supreme Council of the Republic of Estonia, that the Republic of Estonia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court,

provided that this declaration shall not apply to disputes, the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Tallinn, 10 October 1991.

(Signed) A. RÜÜTEL,
Chairman of the Supreme Council.

FINLAND

[Translation from the French] 25 VI 58.

On behalf of the Finnish Government, I hereby declare that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, for a period of five years from 25 June 1958. This declaration shall be renewed by tacit agreement for further periods of the same duration, unless it is denounced not later than six months before the expiry of any such period.

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[1] United Nations, *Treaty Series*, I, No. 3821, Vol. 265.

This declaration shall apply only to disputes arising in regard to situations or facts subsequent to 25 June 1958.

New York, 25 June 1958.

(Signed) G. A. GRIPENBERG,
Permanent Representative of Finland
to the United Nations.

GAMBIA

22 VI 66.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare, on behalf of the Government of the Gambia, that the Gambia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice until such time as notice may be given to terminate the acceptance, over all disputes arising in the future concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

with the reservation, however, that this declaration does not apply to

(a) disputes in regard to which the parties have agreed to a settlement other than by recourse to the International Court of Justice;
(b) disputes with any country in the Commonwealth;
(c) disputes which, by international law, fall exclusively within the jurisdiction of the Gambia.

Bathurst, 14 June 1966.

(Signed) A. B. N'JIE,
Minister of State for External Affairs.

GUINEA-BISSAU

[Translation from the French] 7 VIII 89.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, the Republic of Guinea-Bissau accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in Article 36, paragraph 2, of the Statute thereof.

This declaration will remain in force until six months following the date on which the Government of Guinea-Bissau makes known its intention of terminating it.

New York, 7 August 1989.

(*Signed*) Raul A. DE MELO CABRAL,
Chargé d'affaires a.i.

HAITI

[Translation from the French] 4 X 21.

On behalf of the Republic of Haiti, I recognize the jurisdiction of the Permanent Court of International Justice as compulsory.

(*Signed*) F. ADDOR,
Consul.

HONDURAS

[Translation from the Spanish] 6 VI 86.

The Government of the Republic of Honduras, duly authorized by the National Congress under Decree No. 75-86 of 21 May 1986 to modify the Declaration made on 20 February 1960 concerning Article 36, paragraph 2, of the Statute of the International Court of Justice, *hereby declares* that it modifies the Declaration made by it on 20 February 1960[1] as follows:

1. It recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:
   (*a*) the interpretation of a treaty;
   (*b*) any question of international law;
   (*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
   (*d*) the nature or extent of the reparation to be made for the breach of an international obligation.
2. This Declaration shall not apply, however, to the following disputes to which the Republic of Honduras may be a party:
   (*a*) disputes in respect of which the parties have agreed or may agree to resort to other means for the pacific settlement of disputes;
   (*b*) disputes concerning matters subject to the domestic jurisdiction of the Republic of Honduras under international law;

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[1] *I.C.J. Yearbook 1984-1985*, pp. 78-79.

(c) disputes relating to facts or situations originating in armed conflicts or acts of a similar nature which may affect the territory of the Republic of Honduras, and in which it may find itself involved directly or indirectly;

(d) disputes referring to:

  (i) territorial questions with regard to sovereignty over islands, shoals and keys; internal waters, bays, the territorial sea and the legal status and limits thereof;

  (ii) all rights of sovereignty or jurisdiction concerning the legal status and limits of the contiguous zone, the exclusive economic zone and the continental shelf;

  (iii) the airspace over the territories, waters and zones referred to in this subparagraph.

3. The Government of Honduras also reserves the right at any time to supplement, modify or withdraw this Declaration or the reservations contained therein by giving notice to the Secretary-General of the United Nations.

4. This Declaration replaces the Declaration made by the Government of Honduras on 20 February 1960.

National Palace, Tegucigalpa, D.C., 22 May 1986.

(Signed) José AZCONA H.,
President of the Republic.

(Signed) Carlos LÓPEZ CONTRERAS,
The Secretary of State for Foreign Affairs.

HUNGARY

22 X 92.

The Republic of Hungary hereby recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court in all disputes which may arise in respect of facts or situations subsequent to this declaration, other than:

(a) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(b) disputes in regard to matters which by international law fall exclusively within the domestic jurisdiction of the Republic of Hungary;

(c) disputes relating to, or connected with, facts or situations of hostilities, war, armed conflicts, individual or collective actions taken in self-defence or the discharge of any functions pursuant to any resolution or recommendation of the United Nations, and other similar

or related acts, measures or situations in which the Republic of Hungary is, has been or may in the future be involved;

(d) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the Court only in relation to or for the purpose of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Hungary reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect of six months of such notification to amend, add to or withdraw any of the foregoing reservations or any that may hereafter be added.

This declaration shall remain in force until the expiration of six months after notification has been given of its termination.

Budapest, 7 October 1992.

(Signed) Dr. GÉZA JESZENSZKY,
Minister for Foreign Affairs
of the Republic of Hungary.

INDIA

18 IX 74.

I have the honour to declare, on behalf of the Government of the Republic of India, that they accept, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction of the International Court of Justice over all disputes other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;

(2) disputes with the government of any State which is or has been a Member of the Commonwealth of Nations;

(3) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of India;

(4) disputes relating to or connected with facts or situations of hostilities, armed conflicts, individual or collective actions taken in self-defence, resistance to aggression, fulfilment of obligations imposed by international bodies, and other similar or related acts, measures or situations in which India is, has been or may in future be involved;

(5) disputes with regard to which any other party to a dispute has

accepted the compulsory jurisdiction of the International Court of Justice exclusively for or in relation to the purposes of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of a party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court;

(6) disputes where the jurisdiction of the Court is or may be founded on the basis of a treaty concluded under the auspices of the League of Nations, unless the Government of India specially agree to jurisdiction in each case;

(7) disputes concerning the interpretation or application of a multilateral treaty unless all the parties to the treaty are also parties to the case before the Court or Government of India specially agree to jurisdiction;

(8) disputes with the government of any State with which, on the date of an application to bring a dispute before the Court, the Government of India has no diplomatic relations or which has not been recognized by the Government of India;

(9) disputes with non-sovereign States or territories;

(10) disputes with India concerning or relating to:

  (a) the status of its territory or the modification or delimitation of its frontiers or any other matter concerning boundaries;

  (b) the territorial sea, the continental shelf and the margins, the exclusive fishery zone, the exclusive economic zone, and other zones of national maritime jurisdiction including for the regulation and control of marine pollution and the conduct of scientific research by foreign vessels;

  (c) the condition and status of its islands, bays and gulfs and that of the bays and gulfs that for historical reasons belong to it;

  (d) the airspace superjacent to its land and maritime territory; and

  (e) the determination and delimitation of its maritime boundaries.

(11) disputes prior to the date of this declaration, including any dispute the foundations, reasons, facts, causes, origins, definitions, allegations or bases of which existed prior to this date, even if they are submitted or brought to the knowledge of the Court hereafter.

2. This declaration revokes and replaces the previous declaration made by the Government of India on 14 September 1959[1].

New Delhi, 15 September 1974.

(Signed) Swaran SINGH,
Minister for External Affairs.

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[1] United Nations, *Treaty Series*, I, No. 4871, Vol. 340.

JAPAN

15 IX 58.

I have the honour, by direction of the Minister for Foreign Affairs, to declare on behalf of the Government of Japan, that in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, Japan recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice, over all disputes which arise on and after the date of the present declaration with regard to situations or facts subsequent to the same date and which are not settled by other means of peaceful settlement.

This declaration does not apply to disputes which the parties thereto have agreed or shall agree to refer for final and binding decision to arbitration or judicial settlement.

This declaration shall remain in force for a period of five years and thereafter until it may be terminated by a written notice.

New York, 15 September 1958.

(*Signed*) Koto MATSUDAIRA,
Permanent Representative of Japan
to the United Nations.

KENYA

19 IV 65.

I have the honour to declare, on behalf of the Government of the Republic of Kenya that it accepts, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction over all disputes arising after 12 December 1963 with regard to situations or facts subsequent to that date, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;

(2) dispute with the government of any State which, on the date of this Declaration is a Member of the Commonwealth of Nations or may so become subsequently;

(3) disputes with regard to questions which by general rules of international law fall exclusively within the jurisdiction of Kenya;

(4) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United

Nations, in accordance with which the Government of the Republic of Kenya have accepted obligations.

The Government of the Republic of Kenya reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations to add to, amend, or withdraw any of the foregoing reservations. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Nairobi, 12 April 1965.

(Signed) Joseph MURUMBI,
Minister for External Affairs.

LIBERIA

20 III 52.

On behalf of the Government of the Republic of Liberia, I, Gabriel L. Dennis, Secretary of State of Liberia, subject to ratification, declare that the Republic of Liberia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State, also a party to the Statute pursuant to Article 93 of the United Nations Charter, which accepts the same obligation (i.e., subject to reciprocity), the jurisdiction of the International Court of Justice in all legal disputes arising after ratification concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration does not apply:

(a) to any dispute which the Republic of Liberia considers essentially within its domestic jurisdiction;
(b) to any dispute in regard to which the parties have agreed or may agree to bring before other tribunals as a result of agreements already existing or which may be made in the future.

The present declaration has been made for a period of five years as from the date of deposit of the ratification[1] and thereafter until notice of termination is given.

Done at Monrovia this 3rd day of March 1952.

(Signed) Gabriel L. DENNIS,
Secretary of State.

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[1] The instrument of ratification, dated 30 March 1953, was deposited on 17 April 1953.

LIECHTENSTEIN

[Translation from the French] 29 III 50.

The Government of the Principality of Liechtenstein, duly authorized by His Serene Highness, the Reigning Prince François Joseph II, in accordance with the Order of the Diet of the Principality of Liechtenstein dated 9 March 1950, which came into force on 10 March 1950,

declares by these presents that the Principality of Liechtenstein recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Principality becomes a party to the Statute[1] and shall have effect as long as the declaration has not been revoked subject to one year's notice.

Done at Vaduz, 10 March 1950.

On behalf of the Government of
the Principality of Liechtenstein,
(Signed) A. FRICK,
The Head of Government.

LUXEMBOURG[2]

[Translation from the French] 15 IX 30.

The Government of the Grand-Duchy of Luxembourg recognizes as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, in any disputes arising after the signature of the present declaration with regard to situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present declaration is made for a period of five years.

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[1] Liechtenstein became a party to the Statute of the Court on 29 March 1950.

[2] The Government of Luxembourg had in 1921 signed the Optional Clause subject to ratification. That declaration was, however, never ratified.

Unless it is denounced six months before the expiration of that period, it shall be considered as renewed for a further period of five years and similarly thereafter.

Geneva, 15 September 1930.

(Signed) BECH.

MADAGASCAR

[Translation from the French] 2 VII 1992.

On behalf of the Government of Madagascar, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that Madagascar accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and until such time as notice may be given to terminate this acceptance, the compulsory jurisdiction of the Court in all legal disputes concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration does not apply:

- to disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- disputes relating to questions which, under international law, fall exclusively within the jurisdiction of Madagascar.

The Government of Madagascar also reserves the right to add to, amend or withdraw the foregoing reservations by means of a notification addressed to the Secretary-General of the United Nations, which would take effect on the date of its receipt by the Secretary-General.

Antananarivo, 12 May 1992.

(Signed) Césaire RABENORO,
Minister for Foreign Affairs.

MALAWI

12 XII 66.

On behalf of the Government of Malawi, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes which may arise in respect of facts or situations subsequent to this declaration concerning –

- *(a)* the interpretation of a treaty;
- *(b)* any question of international law;
- *(c)* the existence of any fact which, if established, would constitute a breach of an international obligation;
- *(d)* the nature or extent of the reparation to be made for the breach of an international obligation:

Provided that this declaration shall not apply to –

- (i) disputes with regard to matters which are essentially within the domestic jurisdiction of the Republic of Malawi as determined by the Government of Malawi;
- (ii) disputes in regard to which the parties of the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; or
- (iii) disputes concerning any question relating to or arising out of belligerent or military occupation.

The Government of Malawi also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend, or withdraw any of the foregoing reservations or any that may hereafter be added. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Given under my hand in Zomba this 22nd day of November 1966.

(Signed) H. KAMUZU BANDA,
President and
Minister for External Affairs.

MALTA[1]

6 XII 66.

I have the honour to declare, on behalf of the Government of Malta, that Malta accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the

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[1] By letter of 13 May 1983 to the Secretary-General of the United Nations, the Minister for Foreign Affairs notified the withdrawal, with immediate effect, of a declaration concerning a particular category of disputes which was filed on 23 January 1981 and which is reproduced in *I.C.J. Yearbook 1981-1982*, p. 78.

Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(ii) disputes with the government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree;
(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;
(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;
(v) disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before the Court, or (2) the Government of Malta specially agrees to jurisdiction;
(vi) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a Party;
(vii) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and
(viii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Valletta, 29 November 1966.

(Signed) G. FELICE,
Acting Minister of Commonwealth
and Foreign Affairs.

2 IX 83.

I have the honour to refer to the declaration made by the Government of Malta on 29 November 1966, and notified on 6 December 1966, concerning the compulsory jurisdiction of the International Court of Justice and to give notice that, with effect from the moment this notification is received by Your Excellency, the acceptance of the Government of Malta of the jurisdiction of the Court shall be limited to all disputes with Malta other than

(1) the disputes mentioned in paragraphs (i) to (viii) both inclusive, of the said declaration, and
(2) the following categories of disputes, that is to say:

Disputes with Malta concerning or relating to:

(a) its territory, including the territorial sea, and the status thereof,
(b) the continental shelf or any other zone of maritime jurisdiction, and the resources thereof,
(c) the determination or delimitation of any of the above,
(d) the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Malta.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

(Signed) Alex SCEBERAS TRIGON,
Minister for Foreign Affairs.

MAURITIUS

23 IX 68.

I have the honour to declare, on behalf of the Government of Mauritius, that Mauritius accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(ii) disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which

disputes shall be settled in such manner as the parties have agreed or shall agree;

(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Mauritius;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Mauritius has accepted obligations;

(v) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Mauritius is a party;

(vi) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(vii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Mauritius also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Port Louis, 4 September 1968.

(Signed) S. RAMGOOLAM,
Prime Minister and
Minister for External Affairs.

MEXICO

[Translation from the Spanish] 28 X 47.

In regard to any legal dispute that may in future arise between the United States of Mexico and any other State out of events subsequent to the date of this Declaration, the Mexican Government recognizes as compulsory *ipso facto*, and without any special agreement being required therefor, the jurisdiction of the International Court of Justice in accordance with Article 36, paragraph 2, of the Statute of the said Court, in relation to any other State accepting the same obligation, that is, on condition of strict reciprocity. This Declaration, which does not apply to disputes arising from matters that, in the opinion of the Mexican Government, are within the domestic jurisdiction of the United States of Mexico, shall be binding for a period of five years as from 1 March 1947 and after that date shall continue in force until six months after the Mexican Government gives notice of denunciation.

Mexico, D.F., 23 October 1947.

(Signed) Jaime TORRES BODET,
Secretary of State for External Relations.

NAURU

29 I 88.

On behalf of the Government of the Republic of Nauru I declare that it accepts as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, and stipulate that the acceptance of the Court's jurisdiction shall extend to all disputes to which the Republic is or may be a party, other than any dispute with respect to which there exists a dispute settlement mechanism under an agreement between the Republic of Nauru and another State.

I further declare that the present Declaration shall be in force for a period of five years from the date of its deposit with the Secretary-General of the United Nations.

In witness whereof under my hand and the Common Seal of the Republic of Nauru, *dated* this thirtieth day of the month of December, one thousand nine hundred and eighty-seven.

(Signed) Hammer DEROBURT,
President
and Minister for External Affairs,
Republic of Nauru.

NETHERLANDS

[Translation from the French] 1 VIII 56.

I hereby declare that the Government of the Kingdom of the Netherlands recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from 6 August 1956, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of said Court in all disputes arising or which may arise after 5 August 1921, with the exception of disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, may have agreed to have recourse to some other method of pacific settlement.

The aforesaid obligation is accepted for a period of five years and will be renewed by tacit agreement for additional periods of five years, unless notice is given, not less than six months before the expiry of any such period, that the Government of the Kingdom of the Netherlands does not wish to renew it.

The acceptance of the jurisdiction of the Court founded on the declaration of 5 August 1946[1] is terminated with effect from 6 August 1956.

New York, 1 August 1956.

(Signed) E. L. C. SCHIFF,
Acting Permanent Representative of the
Kingdom of the Netherlands to the United Nations.

NEW ZEALAND

22 IX 77.

I have the honour, by direction of the Minister of Foreign Affairs of New Zealand, to declare on behalf of the Government of New Zealand:

(I) The acceptance by the Government of New Zealand of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 1 April 1940[2] under Article 36 of the Statute of the Permanent Court of International Justice and made applicable to the International Court of Justice by paragraph 5 of Article 36 of the Statute of that Court, is hereby terminated.

(II) The Government of New Zealand accept as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court over all disputes other than:

(1) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(2) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute: or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified

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[1] United Nations, *Treaty Series*, I, No. 2, Vol. 1.

[2] *I.C.J. Yearbook 1976-1977*, pp. 69 f.

less than twelve months prior to the filing of the application bringing the dispute before the Court;

(3) disputes arising out of, or concerning, the jurisdiction or rights claimed or exercised by New Zealand in respect of the exploration, exploitation, conservation or management of the living resources in marine areas beyond and adjacent to the territorial sea of New Zealand but within 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

This Declaration shall remain in force for a period of five years from 22 September 1977 and thereafter until the expiration of six months after notice has been given of the termination of this Declaration provided that the Government of New Zealand reserves the right at any time to amend this Declaration in the light of the results of the Third United Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 22 September 1977.

(Signed) M. J. C. TEMPLETON,
Permanent Representative of
New Zealand to the United Nations.

NICARAGUA[1]

[Translation from the French] 24 IX 29.

On behalf of the Republic of Nicaragua I recognize as compulsory unconditionally the jurisdiction of the Permanent Court of International Justice.

Geneva, 24 September 1929.

(Signed) T. F. MEDINA.

NIGERIA

3 IX 65.

Whereas under Article 93 of the United Nations Charter all Member States are *ipso facto* parties to the Statute of the International Court of Justice;

And whereas the Government of the Federal Republic of Nigeria has decided to accept the compulsory jurisdiction of the International

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[1] See the Court's Judgment of 26 November 1984 (*I.C.J. Reports 1984*, p. 392).

Court of Justice and it is necessary to make a declaration in terms of Article 36 (2) of the Statute of the Court;

Now therefore, I, Nuhu Bamali, Minister of State for External Affairs, hereby declare that the Government of the Federal Republic of Nigeria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court.

Done at Lagos, this 14th day of August, one thousand nine hundred and sixty-five.

(Signed) Nuhu BAMALI,
Minister of State
for External Affairs.

NORWAY[1]

2 IV 76.

I hereby declare on behalf of the Royal Norwegian Government that Norway recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years as from 3 October 1976. This declaration shall thereafter be tacitly renewed for additional periods of five years, unless notice of termination is given not less than six months before the expiration of the current period; provided, however, that the Royal Norwegian Government, having regard to Article 95 of the Charter of the United Nations, reserves the right at any time to amend the scope of this declaration in the light of the results of the Third United Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 2 April 1976.

(Signed) Ole ÅLGÅRD,
Permanent Representative of
Norway to the United Nations.

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[1] This declaration replaced that of 17 December 1956 (United Nations, *Treaty Series*, I, No. 3642, Vol. 256).

PAKISTAN[1]

13 IX 60.

I have the honour, by direction of the President of Pakistan, to make the following declaration on behalf of the Government of Pakistan under Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Government of Pakistan recognize as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes after 24 June 1948, arising, concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that the declaration shall not apply to:

(a) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or
(b) disputes relating to questions which by international law fall exclusively within the domestic jurisdiction of Pakistan;
(c) disputes arising under a multilateral treaty unless
  (i) all parties to the treaty affected by the decision are also parties to the case before the Court, or
  (ii) the Government of Pakistan specially agree to jurisdiction; and provided further, that this Declaration shall remain in force till such time as notice may be given to terminate it.

New York, 12 September 1960.

(Signed) Said HASAN,

Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Pakistan to the
United Nations.

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[1] This declaration replaced that of 23 May 1957 (United Nations, *Treaty Series*, I, No. 3875, Vol. 269) notice of the withdrawal and termination of which was given by letter of 12 September 1960 received on the following day by the Secretary-General of the United Nations.

PANAMA[1]

[Translation from the French] 25 X 21.

On behalf of the Government of Panama, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention.

Paris, 25 October 1921.

(Signed) R. A. AMADOR,
Chargé d'affaires.

PHILIPPINES[2]

18 I 72.

I, Carlos P. Romulo, Secretary of Foreign Affairs of the Republic of the Philippines, hereby declare, under Article 36, paragraph 2, of the Statute of the International Court of Justice, that the Republic of the Philippines recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes arising hereafter concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to any dispute –

(a) in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement; or
(b) which the Republic of the Philippines considers to be essentially within its domestic jurisdiction; or
(c) in respect of which the other party has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of such dispute; or where the acceptance of the compulsory jurisdiction was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court; or

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[1] An instrument of ratification was deposited on 14 June 1929. Cf. the footnote to Colombia, p. 80, above.

[2] This declaration replaced that of 12 July 1947 (United Nations, *Treaty Series*, I, No. 101, Vol. 7).

- *(d)* arising under a multilateral treaty, unless (1) all parties to the treaty are also parties to the case before the Court, or (2) the Republic of the Philippines specially agrees to jurisdiction; or
- *(e)* arising out of or concerning jurisdiction or rights claimed or exercised by the Philippines –
  - (i) in respect of the natural resources, including living organisms belonging to sedentary species, of the sea-bed and subsoil of the continental shelf of the Philippines, or its analogue in an archipelago, as described in Proclamation No. 370 dated 20 March 1968 of the President of the Republic of the Philippines; or
  - (ii) in respect of the territory of the Republic of the Philippines, including its territorial seas and inland waters; and

Provided, further, that this declaration shall remain in force until notice is given to the Secretary-General of the United Nations of its termination.

Done at Manila this 23rd day of December 1971.

(Signed) Carlos P. ROMULO,
Secretary of Foreign Affairs.

POLAND

25 IX 90.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I hereby declare, on behalf of the Government of the Republic of Poland, that the Republic of Poland recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and subject to the sole condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes other than:

- *(a)* disputes prior to the date of this declaration or disputes arisen out of facts or situations prior to the same date;
- *(b)* disputes with regard to the territory or State boundaries;
- *(c)* disputes with regard to pollution of the environment unless the jurisdiction of the International Court of Justice results from the treaty obligations of the Republic of Poland;
- *(d)* disputes with regard to foreign liabilities or debts;
- *(e)* disputes with regard to any State which has made a declaration accepting the compulsory jurisdiction of the International Court of Justice less than 12 months prior to the filing of the application bringing the dispute before the Court;

(*f*) disputes in respect whereof parties have agreed, or shall agree, to have recourse to some other method of peaceful settlement;

(*g*) disputes relating to matters which, by international law, fall exclusively within the domestic jurisdiction of the State.

This declaration shall be valid for a period of five years and be automatically prolonged thereafter for further periods of one year if not denounced by notification addressed to the Secretary-General of the United Nations taking effect after six months from the moment of such notification.

The Government of the Republic of Poland also reserves its right to add, by means of a notification addressed to the Secretary-General of the United Nations and taking effect after six months from the moment of such notification, new reservations or supplements, or to amend or withdraw any of the foregoing reservations.

Warsaw, 21 September 1990.

(Signed) Krzysztof SKUBISZEWSKI,
Minister of Foreign Affairs.

PORTUGAL

19 XII 55.

Under Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare on behalf of the Portuguese Government that Portugal recognizes the jurisdiction of this Court as compulsory *ipso facto* and without special agreement, as provided for in the said paragraph 2 of Article 36 and under the following conditions:

(1) the present declaration covers disputes arising out of events both prior and subsequent to the declaration of acceptance of the "optional clause" which Portugal made on 16 December 1920 as a party to the Statute of the Permanent Court of International Justice;

(2) the present declaration enters into force at the moment it is deposited with the Secretary-General of the United Nations; it shall be valid for a period of one year, and thereafter until notice of its denunciation is given to the said Secretary-General;

(3) the Portuguese Government reserves the right to exclude from the scope of the present declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.

Washington, D.C., 19 December 1955.

(Signed) L. ESTEVES FERNANDES.

SENEGAL[1]

[Translation from the French] 2 XII 85.

I have the honour, on behalf of the Government of the Republic of Senegal, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, it accepts on condition of reciprocity as compulsory *ipso facto* and without special convention, in relation to any other State accepting the same obligation, the jurisdiction of the Court over all legal disputes arising after the present declaration, concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of international obligation.

This declaration is made on condition of reciprocity on the part of all States. However, Senegal may reject the Court's competence in respect of:

- Disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- Disputes with regard to questions which, under international law, fall exclusively within the jurisdiction of Senegal.

Lastly, the Government of the Republic of Senegal reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend or withdraw the foregoing reservations.

Such notification would take effect on the date of its receipt by the Secretary-General.

Dakar, 22 October 1985.

(Signed) Ibrahima FALL,
Minister of Foreign Affairs
of the Republic of Senegal.

SOMALIA

11 IV 63.

I have the honour to declare on behalf of the Government of the Somali Republic that the Somali Republic accepts as compulsory *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all legal disputes arising other than disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court.

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[1] This declaration replaced that of 3 May 1985 (*I.C.J. Yearbook 1984-1985*, p. 93).

The Somali Republic also reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Mogadishu, 25 March 1963.

(Signed) Abdullahi ISSA,
Minister for Foreign Affairs.

SPAIN

[Translation from the Spanish] 29 X 90.

1. On behalf of the Spanish Government, I have the honour to declare that the Kingdom of Spain accepts as compulsory *ipso facto* and without special agreement, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in relation to any other State accepting the same obligation, on condition of reciprocity, in legal disputes not included among the following situations and exceptions:

(a) disputes in regard to which the Kingdom of Spain and the other party or parties have agreed or shall agree to have recourse to some other method of peaceful settlement of the dispute;

(b) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court only in relation to or for the purposes of the dispute in question;

(c) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court less than 12 months prior to the filing of the application bringing the dispute before the Court;

(d) disputes arising prior to the date on which this Declaration was deposited with the Secretary-General of the United Nations or relating to events or situations which occurred prior to that date, even if such events or situations may continue to occur or to have effects thereafter.

2. The Kingdom of Spain may at any time, by means of a notification addressed to the Secretary-General of the United Nations, add to, amend or withdraw, in whole or in part, the foregoing reservations or any that may hereafter be added. These amendments shall become effective on the date of their receipt by the Secretary-General of the United Nations.

3. The present Declaration, which is deposited with the Secretary-General of the United Nations in conformity with Article 36, paragraph 4, of the Statute of the International Court of Justice, shall remain in force until such time as it has been withdrawn by the Spanish Government or superseded by another declaration by the latter.

The withdrawal of the Declaration shall become effective after a period of six months has elapsed from the date of receipt by the Secretary-General of the United Nations of the relevant notification by the Spanish Government. However, in respect of States which have established a period of less than six months between notification of the withdrawal of their Declaration and its becoming effective, the withdrawal of the Spanish Declaration shall become effective after such shorter period has elapsed.

Madrid, 15 October 1990.

(Signed) Francisco FERNÁNDEZ ORDÓÑEZ,
Minister for Foreign Affairs.

SUDAN

2 I 58.

I have the honour by direction of the Ministry of Foreign Affairs to declare, on behalf of the Government of the Republic of the Sudan, that in pursuance of paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Government of the Republic of the Sudan recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, until such time as notice may be given to terminate this declaration, the jurisdiction of the International Court of Justice in all legal disputes arising after the first day of January 1956 with regard to situations or facts subsequent to that date concerning:

(a) the interpretation of a treaty concluded or ratified by the Republic of the Sudan on or after the first day of January 1956;
(b) any question of international law;
(c) the existence of any fact, which, if established, would constitute a breach of an international obligation; or
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

but excluding the following:

(i) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(ii) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of the Sudan as determined by the Government of the Republic of the Sudan;
(iii) disputes arising out of events occurring during any period in which the Republic of the Sudan is engaged in hostilities as a belligerent.

New York, 30 December 1957.

(Signed) Yacoub OSMAN,
Permanent Representative of the Sudan
to the United Nations.

SURINAME

31 VIII 87.

I have the honour by direction of the Minister of Foreign Affairs of the Republic of Suriname, to declare on behalf of the Government of Suriname:

The Government of the Republic of Suriname recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from the seventh September 1987, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes, which have arisen prior to this Declaration or may arise after this Declaration, with the exception of:

(A) disputes which have arisen or may arise with respect to or in relation with the borders of the Republic of Suriname;
(B) disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, have agreed to settlement by means of arbitration, mediation or other methods of conciliation and accommodation.

This Declaration shall be binding for a period of five years and shall continue in force after that period until twelve months after the Government of the Republic of Suriname has given notice of its termination.

New York, 31 August 1987.

(Signed) W. H. Werner VREEDZAAM,
Chargé d'affaires of the Permanent Mission
of the Republic of Suriname
to the United Nations.

SWAZILAND

26 V 69.

I, Prince Makhosini Jameson Dlamini, Prime Minister of the Kingdom of Swaziland to whom His Majesty has delegated responsibility for the conduct of foreign affairs, have the honour to declare on behalf of the Government of the Kingdom of Swaziland, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or

(b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Kingdom of Swaziland.

The Government of the Kingdom of Swaziland also reserves the right to add to, amend or withdraw this Declaration by means of a notification addressed to the Secretary-General of the United Nations, with effect as from the moment of such notification.

Mbabane, 9 May 1969.

(Signed) Makhosini Jameson DLAMINI,
Prime Minister and Minister
for Foreign Affairs.

SWEDEN[1]

[Translation from the French] 6 IV 57.

On behalf of the Royal Swedish Government, I declare that it accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the said Court, for a period of five years as from 6 April 1957. This obligation shall be renewed by tacit agreement for further periods of the same duration unless notice of abrogation is made at least six months before the expiration of any such period. The above-mentioned obligation is accepted only in respect of disputes which may arise with regard to situations or facts subsequent to 6 April 1947.

New York, 6 April 1957.

(Signed) Claes CARBONNIER,
Permanent Representative *a.i.*
of Sweden to the United Nations.

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[1] This declaration replaced that of 5 April 1947, which had been made for a period of ten years (United Nations, *Treaty Series*, I, No. 16, Vol. 2).

SWITZERLAND

[Translation from the French] 28 VII 48.

The Swiss Federal Council, duly authorized for that purpose by a Federal decree which was adopted on 12 March 1948 by the Federal Assembly of the Swiss Confederation and became operative on 17 June 1948,

Hereby declares that the Swiss Confederation recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Swiss Confederation becomes a party to that Statute[1] and shall have effect as long as it has not been abrogated subject to one year's notice.

Done at Berne, 6 July 1948.

On behalf of the Swiss Federal Council:
(Signed) CELIO,
The President of the Confederation.
(Signed) LEIMGRUBER,
The Chancellor of the Confederation.

TOGO

[Translation from the French] 25 X 1979.

The Togolese Republic,

Represented by His Excellency Mr. Akanyi-Awunyo Kodjovi, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Togo to the United Nations,

Acting pursuant to the provisions of Article 36, paragraphs 2 and 3, of the Statute of the International Court of Justice, annexed to the Charter of the United Nations,

Guided by its constant concern to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it might be involved, and desiring to contribute to the strengthening of the international legal order based on the principles set forth in the Charter of the United Nations,

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[1] Switzerland became a party to the Statute of the Court on 28 July 1948.

Declares that it recognizes as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, that is, subject to reciprocity, the jurisdiction of the International Court of Justice in all disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration has been made for an unlimited period subject to the power of denunciation and modification attached to any obligation assumed by a sovereign State in its international relations. It will enter into force on the day on which it is received by the United Nations Secretariat.

New York, 24 October 1979.

(Signed) Akanyi-Awunyo KODJOVI.

UGANDA

3 X 63.

I hereby declare on behalf of the Government of Uganda that Uganda recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, and on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court.

New York, 3 October 1963.

(Signed) Apollo K. KIRONDE,
Ambassador and Permanent Representative
of Uganda to the United Nations.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND[1]

1 I 69.

I have the honour, by direction of Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to declare on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland that they accept as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after 24 October 1945, with regard to situations or facts subsequent to the same date, other than:

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[1] This declaration replaced that of 27 November 1963 (United Nations, *Treaty Series*, I, No. 6995, Vol. 482), notice of the withdrawal and termination of which was given by letter of 1 January 1969, received by the Secretary-General of the United Nations on that date.

(i) any dispute which the United Kingdom

   (a) has agreed with the other Party or Parties thereto to settle by some other method of peaceful settlement; or

   (b) has already submitted to arbitration by agreement with any State which had not at the time of submission accepted the compulsory jurisdiction of the International Court of Justice;

(ii) disputes with the government of any other country which is a Member of the Commonwealth with regard to situations or facts existing before 1 January 1969;

(iii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. The Government of the United Kingdom also reserve the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

New York, 1 January 1969.

(Signed) L. C. GLASS.

URUGUAY[1]

[Translation from the French] *Prior to* 28 I 21[2].

On behalf of the Government of Uruguay, I recognize, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

(Signed) B. FERNANDEZ Y MEDINA.

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[1] An instrument of ratification was deposited on 27 September 1921. Cf. the footnote to Colombia, p. 80, above.

[2] The date on which this declaration (undated) was first published in a League of Nations document.

ZAIRE

[Translation from the French] 8 II 89.

... in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Executive Council of the Republic of Zaire recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

It is understood further that this declaration will remain in force until notice of its revocation is given.

(Signed) Bagbeni Adeito NZENGEYA,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Zaire
to the United Nations.

III. CHRONOLOGICAL LIST OF OTHER INSTRUMENTS GOVERNING THE JURISDICTION OF THE COURT

Below is a chronological list of treaties and other instruments *notified to the Registry* following registration, classification or recording at the Secretariat of the United Nations which (in addition to certain texts referred to in Section I of the present chapter, the declarations reproduced in Section II and the special agreements whereby particular cases were submitted to the Court) contain clauses relating to the jurisdiction of the Court in contentious proceedings. Such clauses generally provide that disputes concerning the application or interpretation of the instrument may be referred to the Court for decision. For each instrument, the table mentions the date and place of signature, the title of the instrument, the relevant clause and the contracting parties, and also, as far as available, the number under which it has been registered or filed and recorded by the Secretariat and the volume in the United Nations *Treaty Series* in which it has been or will be published.

Where instruments prior to 1946 are mentioned they are instruments relating to the jurisdiction of the *Permanent Court of International Justice* which have been filed and recorded by the Secretariat of the United Nations and appear in the *Treaty Series* of the United Nations.

The fact that a treaty is or is not included in this section is without prejudice to its possible application by the Court in a particular case.

Any instrument not mentioned in previous *I.C.J. Yearbooks* is indicated by an asterisk.

1933	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
12 May	Ottawa	Convention concerning the rights of nationals and commercial and shipping matters (Art. 20)	Canada/France	II : 545 Vol. 253
1939				
17 Dec.	Bogotá	Treaty of non-aggression, conciliation and judicial settlement (Art. XXIV)	Colombia/ Venezuela	II : 896 Vol. 1257
1940				
30 Mar.	Caracas	Treaty for the pacific settlement of disputes	Brazil/Venezuela	II : 195 Vol. 51
1944				
7 Dec.	Chicago	International air services transit agreement (Art. II, Sec. 2)	Multilateral	II : 252 Vol. 84
7 Dec.	Chicago	International air transport agreement (Art. IV, Sec. 3)	Multilateral	II : 502 Vol. 171
1946				
17 Apr.	Luxembourg	Convention concerning the Luxembourg railways (Art. 12)	Luxembourg/ Belgium/France	I : 402 Vol. 27
4 Nov.	Nanking	Treaty of friendship, commerce and navigation (Art. XXVIII)	China[1]/ United States	I : 359 Vol. 25
11 Dec.[2]	Lake Success	International convention relating to dangerous drugs, signed at Geneva, 19 Feb. 1925, as amended (Art. 32)	Multilateral	I : 186 Vol. 12
11 Dec.[2]	Lake Success	International convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, as amended (Art. 25)	Multilateral	I : 186 Vol. 12
11 Dec.[2]	Lake Success	International convention for the suppression of illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, as amended (Art. 17)	Multilateral	I : 186 Vol. 12
1947				
18 Apr.	Manila	Treaty of amity (Art. 2)	China[1]/Philippines	I : 175 Vol. 11

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[1] All entries recorded throughout this Section in respect of China refer to actions taken by the authorities representing China in the United Nations at the time of those actions, and are to be understood in the light of General Assembly resolution 2758 (XXVI) of 25 October 1971.

[2] The date and place given here are those of the signature of the amending protocol.

1947 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
9 July	Rome	Treaty of friendship and general relations (Art. V)	Italy/Philippines	I: 674 Vol. 44
17 Oct.	London	Treaty regarding recognition of Burmese independence (Art. 14)	United Kingdom/Burma	I: 904 Vol. 70
12 Nov.[1]	Lake Success	Convention (concluded at Geneva on 12 Sep. 1923) for the suppression of the circulation of and traffic in obscene publications, as amended (Art. 15)	Multilateral	I: 710 Vol. 46
12 Nov.[1]	Lake Success	Convention (concluded at Geneva on 11 Oct. 1933) for the suppression of traffic in women of full age, as amended (Art. 4)	Multilateral	I: 772 Vol. 53
1948				
24 Jan.	Paris	Agreement concerning monetary and financial relations (Art. 23)	France/Lebanon	I: 2263 Vol. 173
2 Feb.	Rome	Treaty of friendship, commerce and navigation (Art. XXVI)	United States/Italy	I: 1040 Vol. 79
30 Apr.	Bogotá	American treaty on pacific settlement	Multilateral	I: 449 Vol. 30
21 May	New Delhi	Agreement relating to air services (Art. XI)	India/Sweden	I: 543 Vol. 34
23 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/India	I: 423 Vol. 28
28 June	Rome	Economic co-operation agreement (Art. X)	United States/Italy	I: 314 Vol. 20
28 June	Paris	Economic co-operation agreement (Art. X)	United States/France	I: 302 Vol. 19
29 June	Copenhagen	Economic co-operation agreement (Art. X)	United States/Denmark	I: 338 Vol. 22
2 July	Vienna	Economic co-operation agreement (Art. IX)	United States/Austria	I: 323 Vol. 21
2 July	The Hague	Economic co-operation agreement (Art. X)	United States/Netherlands	I: 315 Vol. 20
2 July	Athens	Economic co-operation agreement (Art. X)	United States/Greece	I: 342 Vol. 23
2 July	Brussels	Economic co-operation agreement (Art. X)	United States/Belgium	I: 309 Vol. 19
3 July	Oslo	Economic co-operation agreement (Art. X)	United States/Norway	I: 317 Vol. 20
3 July	Reykjavik	Economic co-operation agreement (Art. X)	United States/Iceland	I: 316 Vol. 20

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[1] See note 2, p. 114.

1948 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 July	Nanking	Economic co-operation agreement (Art. XI)	United States/China[1]	I:273 Vol. 17 and 45
3 July	Luxembourg	Economic co-operation agreement (Art. X)	United States/Luxembourg	I:350 Vol. 24
3 July	Stockholm	Economic co-operation agreement (Art. IX)	United States/Sweden	I:343 Vol. 23
4 July	Ankara	Economic co-operation agreement (Art. IX)	United States/Turkey	I:351 Vol. 24
6 July	London	Economic co-operation agreement (Art. X)	United States/United Kingdom	I:339 Vol. 22
28 Sep.	Lisbon	Economic co-operation agreement, as amended (Art. X)	United States/Portugal	I:442 Vol. 29
6 Oct.	Beirut	Treaty concerning consular arrangements, navigation, civil and commercial rights and establishment (Art. 33)	Greece/Lebanon	I:1179 Vol. 87
15/29 Nov.	Washington	*cf.* 1961, 23 Nov.		
9 Dec.	Paris (opened for signature)	Convention on the prevention and punishment of the crime of genocide (Art. IX)	Multilateral	I:1021 Vol. 78
1949				
3 Jan.	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Ceylon	I:428 Vol. 28
28 Apr.	Lake Success (opened for accession)	Revised general act for the pacific settlement of international disputes	Multilateral	I:912 Vol. 71
14 June	Washington	Treaty of friendship (Art. II)	Thailand/Philippines	I:1062 Vol. 81
4 July	Berne	Convention concerning the construction and use of the Bâle-Mulhouse airport at Blotzheim (Art. 20)	France/Switzerland	I:22048 Vol. 1323
15 July	Lake Success (opened for signature)	Agreement for facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character (Art. IX)	Multilateral	I:2631 Vol. 197
30 Aug.	Ottawa	Agreement relating to air services (Art. 9)	Canada/Belgium	I:782 Vol. 53
10 Sep.	Guatemala City	Treaty of peace, friendship and co-operation (Art. 7)	Guatemala/Italy	I:1410 Vol. 102
19 Sep.	Geneva	Convention on road traffic (Art. 33)	Multilateral	I:1671 Vol. 125
20 Sep.	Beirut	Air transport agreement (Art. IX)	Netherlands/Lebanon	I:1474 Vol. 108
20 Oct.	New Delhi	Agreement relating to air services (Art. XI)	India/Philippines	I:934 Vol. 72
31 Oct.	Tehran	Agreement relating to air services (Art. 12)	Netherlands/Iran	I:3596 Vol. 254

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[1] See note 1, p. 114.

1950	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
12 Jan.	Canberra	Agreement relating to air services (Art. XII)	Australia/Ceylon	I: 789 Vol. 53
21 Jan.	Dublin	Treaty of friendship, commerce and navigation (Art. XXIII)	United States/ Ireland	I: 2792 Vol. 206
27 Jan.	Mexico City	Commercial agreement (Art. VII)	Netherlands/ Mexico	I: 1661 Vol. 123
18 Feb.	Tehran	Treaty of friendship (Art. IV)	Iran/Pakistan	I: 2119 Vol. 161
21 Mar.	Lake Success (opened for signature)	Convention for suppression of traffic in persons and of exploitation of prostitution of others (Art. 22)	Multilateral	I: 342 Vol. 96
24 Mar.	Rome	Treaty of friendship, conciliation and judicial settlement (Arts. 18-24)	Turkey/Italy	I: 1338 Vol. 96
6 Aug.	Cairo	Agreement relating to air transport services (Art. XVI)	Egypt/France	I: 1710 Vol. 127
16 Aug.	Wellington	Agreement relating to air services (Art. X)	New Zealand/ Canada	I: 1002 Vol. 77
28 Aug.	Manila	Treaty of friendship, consular services and establishment (Art. II)	Greece/Philippines	I: 3097 Vol. 225
16 Sep.	Brussels	Commercial agreement (Art. 7)	Belgo-Luxembourg Economic Union/ Mexico	I: 2523 Vol. 188
15 Dec.	London	Trade agreement (Art. 8)	United Kingdom/ Norway	I: 1459 Vol. 106
1951				
2 Feb.	Paris	Treaty of cession of the territory of the Free Town of Chandernagore (Art. XI)	India/France	I: 2744 Vol. 203
22 Feb.	Oslo	Consular convention (Art. 34)	United Kingdom/ Norway	I: 4713 Vol. 326
8 May	London	Agreement for air services (Art. 10)	Belgium/ United Kingdom	I: 2079 Vol. 158
24 May	New Delhi	Agreement relating to air services (Art. XI)	India/Netherlands	I: 1471 Vol. 108
18 June	Tehran	Agreement relating to air services (Art. 12)	Denmark/Iran	I: 3602 Vol. 255
28 July	Geneva (opened for signature)	Convention relating to the status of refugees (Art. 38)	Multilateral	I: 2545 Vol. 189
3 Aug.	Athens	Treaty of friendship, commerce and navigation (Art. XXVI)	Greece/ United States	I: 3080 Vol. 224
23 Aug.	Washington	Treaty of friendship, commerce and navigation (Art. XXIV)	Israel/ United States	I: 2979 Vol. 219
7 Sep.	Addis Ababa	Treaty of amity and economic relations (Art. XVII)	United States/ Ethiopia	I: 2785 Vol. 206

1951 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
8 Sep.	San Francisco	Treaty of peace with Japan (Art. 22)	Multilateral	I: 1832 Vol. 136
25 Sep.	Canberra	Agreement relating to air services (Art. VIII)	Netherlands/ Australia	I: 1713 Vol. 128
1 Oct.	Copenhagen	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/ Denmark	I: 6056 Vol. 421
31 Dec.	Paris	Consular convention (Art. 49)	France/ United Kingdom	I: 4744 Vol. 330
1952				
14 Mar.	Stockholm	Consular convention (Art. 34)	Sweden/ United Kingdom	I: 2731 Vol. 202
9 May	Tel Aviv	Agreement for economic assistance (Art. VIII)	United States/Israel	I: 226 Vol. 177
14 June	Cairo	Agreement relating to air services (Art. XIV)	Australia/Egypt	I: 2269 Vol. 173
11 July	Manila	Treaty of friendship (Art. II)	India/Philippines	I: 2741 Vol. 203
17 July	Karachi	Agreement relating to air services (Art. XI)	Pakistan/ Netherlands	I: 1980 Vol. 150
29 Aug.	Cairo	Agreement relating to air services (Art. XI)	Ethiopia/Pakistan	I: 1979 Vol. 150
6 Sep.	Geneva	Universal copyright convention (Art. XV)	Multilateral	I: 2937 Vol. 216
1953				
31 Mar.	New York (opened for signature)	Convention on the political rights of women (Art. IX)	Multilateral	I: 2613 Vol. 193
31 Mar.	New York (opened for signature)	Convention on the international right of correction (Art. V)	Multilateral	I: 6280 Vol. 435
2 Apr.	Tokyo	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/Japan	I: 2788 Vol. 206
17 Apr.	Athens	Consular convention (Art. 35)	Greece/ United Kingdom	I: 2582 Vol. 191
27 Apr.	Bangkok	Agreement relating to air services (Art. 10)	Thailand/ Philippines	I: 2274 Vol. 174
23 June	New York (opened for signature)	Protocol for limiting and regulating cultivation of poppy plant, production of, international and wholesale trade in, and use of opium (Art. 15)	Multilateral	I: 6555 Vol. 456
1 July	Paris (opened for signature)	Convention for the establishment of a European Organization for Nuclear Research (Art. XI)	Multilateral	I: 2701 Vol. 200
14 Sep.	Colombo	Agreement for air services (Art. 11)	Netherlands/Ceylon	I: 2608 Vol. 193

1953 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
24 Sep.	Helsinki	Agreement concerning a supplement to the convention of 30 January 1926 for the pacific settlement of disputes	Finland/Denmark	I: 2532 Vol. 188
26 Sep.	Madrid	Economic aids agreement (Art. IX)	Spain/United States	I: 2802 Vol. 207
19 Oct.	Venice	Constitution of the Intergovernmental Committee for European Migration (Art. 30)	Multilateral	I: 2807 Vol. 207
7 Dec.[1]	New York	Slavery convention signed at Geneva on 25 Sep. 1926, as amended (Art. 8)	Multilateral	I: 2861 Vol. 212
24 Dec.	Beirut	Agreement for air services (Art. 10)	Belgium/Lebanon	I: 2972 Vol. 219
1954				
16 Feb.	Paris	Convention on conditions of residence and navigation (Art. 13)	Sweden/France	I: 3147 Vol. 228
3 Mar.	Bangkok	Treaty of friendship (Art. VI)	Thailand/Indonesia	I: 2893 Vol. 213
20 Mar.	Mexico City	Consular convention (Art. 36)	United Kingdom/ Mexico	I: 4750 Vol. 331
17 Apr.	Beirut	Agreement relating to air services (Art. XIII)	Yugoslavia/ Lebanon	I: 8713 Vol. 602
12 May	London (opened for signature)	International convention for the prevention of pollution of the sea by oil (Art. XIII)	Multilateral	I: 4714 Vol. 327
1 June	Rome	Consular convention (Art. 37)	United Kingdom/ Italy	I: 5798 Vol. 403
28 Sep.	New York	Convention relating to the status of stateless persons (Art. 34)	Multilateral	I: 5158 Vol. 360
13 Oct.	Paris (opened for signature)	International convention on the standardization of methods of analysing and appreciating wines (Art. 6)	Multilateral	I: 10416 Vol. 724
23 Oct.[2]	Paris	Treaty for collaboration in economic, social and cultural matters and for collective self-defence, signed at Brussels on 17 March 1948, as amended (Art. X)	Belgium, France, Luxembourg, Netherlands, United Kingdom, Fed. Rep. of Germany, Italy	I: 304 Vols. 19 and 211
29 Oct.	Washington	Treaty of friendship, commerce and navigation (Art. XXVII)	United States/ Fed. Rep. of Germany	I: 3943 Vol. 273

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[1] The date and the place given here are those at which the amending protocol was opened for signature.

[2] The date and the place given here are those of the signature of the protocol modifying and completing the Treaty, by which Article VIII of the Treaty became Article X.

1954 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
5 Nov.	Rangoon	Treaty of peace (Art. IX)	Burma/Japan	I: 3542 Vol. 251
24 Nov.	Rio de Janeiro	Agreement concerning conciliation and judicial settlement (Arts. 16-22)	Italy/Brazil	I: 4146 Vol. 284
1 Dec.[1]	Paris	Agreement concerning the International Institute of Refrigeration, replacing the convention of 21 June 1920 (Art. XXXIII)	Multilateral	I: 11837 Vol. 826
14 Dec.	Quito	Air transport agreement (Art. VIII)	Netherlands/ Ecuador	I: 3233 Vol. 232
1955				
31 Jan.	Manila	Agreement for air services (Art. 11)	Philippines/ United Kingdom	I: 2932 Vol. 216
5 Mar.	Paris	Consular convention (Art. 44)	Sweden/France	I: 6150 Vol. 427
10 Aug.	Tripoli	Treaty of friendship and good neighbourliness (Art. 8)	France/Libya	
15 Aug.	Tehran	Treaty of amity, economic relations and consular rights (Art. XXI)	United States/Iran	I: 4132 Vol. 284
17 Sep.	Lugano	Convention concerning the regulation of Lake Lugano (Art. XI)	Italy/Switzerland	I: 4257 Vol. 291
20 Oct.	Berne	Additional protocol to the convention concerning the constitution of "Eurofima" (Art. 14)	Multilateral	I: 5425 Vol. 378
21 Oct.	Beirut	Air transport agreement (Art. 11)	Denmark/Lebanon	I: 3482 Vol. 248
13 Dec.	Paris	European convention on establishment (Art. 31)	Multilateral	I: 7660 Vol. 529
1956				
27 Mar.	The Hague	Treaty of friendship, commerce and navigation (Art. XXV)	Netherlands/ United States	I: 4154 Vol. 285
30 Apr.	Paris	Agreement on commercial rights of non-scheduled air services in Europe (Art. 4)	Multilateral	I: 4494 Vol. 310
19 May	Geneva (opened for signature)	Convention on the contract for the international carriage of goods by road (Art. 47)	Multilateral	I: 5742 Vol. 399
20 June	New York (opened for signature)	Convention on the recovery abroad of maintenance (Art. 16)	Multilateral	I: 3850 Vol. 268
30 July	Bonn	Consular convention (Art. 41)	United Kingdom/ Fed. Rep. of Germany	I: 4748 Vol. 330

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[1] The date and place given here are those of the signature of the revised Convention.

1956 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
30 Aug.	Manila	Treaty of friendship (Art. 2)	Philippines/Switzerland	I:4284 Vol. 293
7 Sep.	Geneva	Supplementary convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery (Art. 10)	Multilateral	I:3822 Vol. 266
28 Nov.	Seoul	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/Rep. of Korea	I:4367 Vol. 302
11 Dec.	Athens	Convention on judicial settlement	Greece/Sweden	I:4316 Vol. 299
1957				
20 Feb.	New York (opened for signature)	Convention on the nationality of married women (Art. 10)	Multilateral	I:4468 Vol. 309
28 Feb.	Tokyo	Treaty of commerce and navigation (Art. XVIII, para. 2)	Norway/Japan	I:4054 Vol. 280
24 Apr.	Cairo	Declaration on the Suez Canal and the arrangements for its operation (para. 9)	Egypt[1]	I:3821 Vol. 265
29 Apr.	Strasbourg (opened for signature)	European convention of the peaceful settlement of disputes	Multilateral	I:4646 Vol. 230
23 June	Kabul	Agreement relating to air services (Art. XI)	Pakistan/Afghanistan	I:4717 Vol. 327
23 Nov.	The Hague	Agreement relating to refugee seamen (Art. 14)	Multilateral	I:7384 Vol. 506
1958				
20 Jan.	Djakarta	Treaty of peace (Art. 6)	Japan/Indonesia	I:4688 Vol. 324
3 Feb.	The Hague	Treaty instituting the Benelux Economic Union (Art. 50)	Belgium, Luxembourg, Netherlands	I:5471 Vol. 381
5 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Norway/Pakistan	I:4769 Vol. 334
6 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Sweden/Pakistan	I:5656 Vol. 393
10 Apr.	Copenhagen	Agreement relating to air services (Art. XI)	Denmark/Pakistan	I:4353 Vol. 302
14 Apr.	Tehran	Agreement concerning air transport (Art. 13)	Belgium/Iran	I:5473 Vol. 381
29 Apr.	Geneva (opened for signature)	Optional protocol of signature concerning the compulsory settlement of disputes[2]	Multilateral	I:6466 Vol. 450

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[1] See Sec. II, pp. 82-83, above.

[2] This Protocol relates to disputes concerning the Geneva Conventions on the Law of the Sea of 29 April 1958.

1958 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
7 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Portugal	I: 4645 Vol. 320
4 July	Karachi	Agreement relating to air services (Art. XI)	Belgium/Pakistan	I: 5569 Vol. 387
21 July	Vienna	Agreement relating to air services (Art. XI)	Austria/Afghanistan	I: 9236 Vol. 645
28 Nov.	Monrovia	Agreement for the establishment and operation of air services (Art. 9)	Liberia/Netherlands	I: 5651 Vol. 393
1959				
30 Jan.	Tegucigalpa	Agreement on commerce (Art. XII)	Belgium, Luxembourg, Netherlands/ Honduras	I: 9234 Vol. 645
16 July	Rome	Agreement relating to air services (Art. XI)	India/Italy	I: 6714 Vol. 464
12 Nov.	Washington	Treaty of friendship and commerce (Art. XXIII)	United States/ Pakistan	I: 5816 Vol. 404
19 Nov.	Rome	Convention placing the International Poplar Commission within the framework of FAO (Art. XV)	Multilateral	I: 5902 Vol. 410
25 Nov.	Paris	Convention of establishment (Art. XVI)	United States/ France	I: 5764 Vol. 401
25 Nov.	Bonn	Treaty for the promotion and protection of investments (Art. 11)	Pakistan/ Fed. Rep. of Germany	I: 6575 Vol. 457
1 Dec.	Washington	Antarctic treaty (Art. XI)	Multilateral	I: 5778 Vol. 402
9 Dec.	Monrovia	Agreement relating to air services (Art. VIII)	Sweden/Liberia	I: 6716 Vol. 464
1960				
13 Feb.[1]	Beirut	Agreement for air transport of 24 Jan. 1949, as amended (Art. 9)	Italy/Lebanon	I: 3223 Vol. 497
9 Mar.	Conakry	Air transport agreement (Art. 9)	Netherlands/Guinea	I: 5646 Vol. 392
15 Mar.	Geneva	Convention relating to the unification of certain rules concerning collisions in inland navigation (Art. 14)	Multilateral	I: 8310 Vol. 572
24 Mar.	Berne	Agreement concerning air services (Art. 9)	Belgium/ Switzerland	I: 5996 Vol. 416
8 Apr.	The Hague	Treaty concerning arrangements for co-operation in the Ems estuary (Art. 46)	Netherlands/ Fed. Rep. of Germany	I: 7404 Vol. 509

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[1] The date given here is the date of signature of the amending protocol.

1960 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
8 Apr.	The Hague	Agreement to accept the compulsory jurisdiction of the International Court of Justice in disputes concerning the interpretation or application of the revised convention on Rhine navigation, 1868	Netherlands/ Fed. Rep. of Germany	I: 7404 Vol. 509
24 June	Vienna	Consular convention (Art. 45)	United Kingdom/ Austria	I: 7327 Vol. 502
19 Oct.	Amman	Agreement relating to air services (Art. 9)	Belgium/Jordan	I: 6959 Vol. 479
14 Dec.	Paris	Convention against discrimination in education (Art. 8)	Multilateral	I: 6193 Vol. 429
14 Dec.[1]	New Delhi	Agreement of 11 July 1949 relating to air services, as amended (Art. X)	India/Australia	I: 552 Vols. 35 and 425
18 Dec.	Tokyo	Treaty of friendship and commerce (Art. XIII)	Pakistan/Japan	I: 6093 Vol. 423
1961				
21 Feb.	Brussels	Treaty of friendship, establishment and navigation (Art. 19)	Belgium/ United States	I: 6967 Vol. 480
8 Mar.	Brussels	Consular convention (Art. 43)	Belgium/ United Kingdom	I: 7554 Vol. 523
11 Mar.	Reykjavik	Exchange of notes constituting an agreement settling the fisheries dispute (para. 4)	Iceland/ United Kingdom	I: 5710 Vol. 397
30 Mar.	New York	Single convention on narcotic drugs (Art. 48)	Multilateral	I: 7515 Vol. 520
3 Apr.	Saigon	Treaty of amity and economic relations (Art. XIV)	United States/ Republic of Viet Nam	I: 6106 Vol. 424
18 Apr.	Vienna	Optional protocol to the Vienna convention on diplomatic relations concerning the compulsory settlement of disputes	Multilateral	I: 7312 Vol. 500
30 May	Madrid	Consular convention (Art. 53)	United Kingdom/ Spain	I: 8198 Vol. 562
17 June	Conakry	Air transport agreement (Art. 9)	Sweden/Guinea	I: 6729 Vol. 465
19 July	Reykjavik	Exchange of notes constituting an agreement concerning the fishery zone round Iceland (para. 5)	Iceland/ Fed. Rep. of Germany	I: 5877 Vol. 409
27 July	Beirut	Agreement for the establishment and operation of air services (Art. XII)	Lebanon/Liberia	I: 11304 Vol. 794

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[1] The date given here is that of the exchange of notes which modified the Agreement and by which Article XI became Article X.

1961 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
24 Aug.	Amman	Agreement relating to air services (Art. 9)	Netherlands/Jordan	I:6733 Vol. 466
30 Aug.	New York	Convention on the reduction of statelessness (Art. 14)	Multilateral	I:14458 Vol. 989
31 Aug.	Monrovia	Agreement relating to air services (Art. XII)	Switzerland/Liberia	I:8160 Vol. 559
26 Oct.	Rome	International convention for the protection of performers, producers of phonograms and broadcasting organizations (Art. 30)	Multilateral	I:7247 Vol. 496
23 Nov.[1]	Rome	Constitution of the International Rice Commission, adopted at Washington 15/29 Nov. 1948, as amended (Art. XI)	Multilateral	I:1613 Vol. 418
23 Nov.[1]	Rome	Agreement for the establishment of Indo-Pacific Fisheries Council, adopted at Washington 15/29 Nov. 1948, as amended (Art. III)	Multilateral	I:1615 Vol. 418
1962				
23 Feb.	Luxembourg	Treaty of friendship, establishment and navigation (Art. XVII)	United States/ Luxembourg	I:6868 Vol. 474
19 Mar.	Evian	*cf.* 1962, 3 July		
21 June	Paris	Air transport agreement (Art. 9)	Norway/Guinea	I:6738 Vol. 466
27 June	Copenhagen	Consular convention (Art. 36)	United Kingdom/ Denmark	I:8197 Vol. 562
29 June	Bonn	Agreement relating to air services (Art. VIII)	Norway/Liberia	I:6739 Vol. 466
3 July[2]	Paris and Rocher-Noir	Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement (declaration of principles relating to the settlement of disputes)	France/Algeria	I:7395 Vol. 507
14 Nov.	London	Treaty of commerce, establishment and navigation (Art. 31)	United Kingdom/ Japan	I:6934 Vol. 478
10 Dec.	New York (opened for signature)	Convention on consent to marriage, minimum age for marriage and registration of marriages (Art. 8)	Multilateral	I:7525 Vol. 521

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[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the instrument.

[2] The date and the places given here are those of the exchange of letters.

1963	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
8 Jan.	Seoul	Consular convention (Art. 16)	United States/ Republic of Korea	I: 7211 Vol. 493
24 Apr.	Vienna	Optional protocol to the Vienna convention on consular relatons concerning the compulsory settlement of disputes	Multilateral	I: 8640 Vol. 596
13 Aug.	Asunción	Agreement on trade and navigation (Art. XVI)	Belgium, Luxembourg, Netherlands/ Paraguay	I: 8572 Vol. 592
14 Sep.	Tokyo	Convention on offences and certain other acts committed on board aircraft (Art. 24)	Multilateral	I: 10106 Vol. 704
26 Oct.	Niamey	Act regarding navigation and economic co-operation between the States of the Niger Basin (Art. 7)	Multilateral	I: 8506 Vol. 587
31 Oct.	Paris (opened for signature)	Protocol on privileges and immunities of the European Space Research Organization (Art. 29)	Multilateral	I: 11473 Vol. 805
3 Dec.[1]	Rome	Agreement for the establishment of a General Fisheries Council for the Mediterranean, drawn up at Rome on 24 Sep. 1949, as amended (Art. XIII)	Multilateral	I: 1691 Vol. 490
3 Dec.	Rome	Agreement for the establishment of a Commission for Controlling the Desert Locust in the Eastern Region of Its Distribution Area in South-West Asia (Art. XVII)	Multilateral	I: 7663 Vol. 529
1964				
4 Feb.	Karachi	Agreement relating to scheduled air services (Art. XII, para. B, ii)	Pakistan/Lebanon	I: 8863 Vol. 614
4 May	Tokyo	Consular convention (Art. 39)	United Kingdom/ Japan	I: 8179 Vol. 561
19 Sep.	Beirut	Agreement relating to air services (Art. XI)	India/Lebanon	I: 11820 Vol. 825
1965				
25 Jan.	Geneva	Convention on the registration of inland navigation vessels (Art. 20)	Multilateral	I: 21114
18 Mar.	Washington (opened for signature)	Convention on the settlement of investment disputes between States and nationals of other States (Art. 64)	Multilateral	I: 8359 Vol. 575

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[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the Agreement.

1965 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
21 Apr.	Belgrade	Consular convention (Art. 45)	United Kingdom/ Yugoslavia	I:8620 Vol. 595
2 July	Rome	Agreement for establishment of a commission for controlling the desert locust in the Near East (Art. XVI)	Multilateral	I:8575 Vol. 592
7 July	London	Treaty for conciliation, judicial settlement and arbitration (Art. 14)	United Kingdom/ Switzerland	I:8765 Vol. 605
1966				
8 Feb.	Lomé	Treaty of amity and economic relations (Art. XIV)	United States/ Togo	I:9677 Vol. 680
15 Feb.	Geneva	Convention on the measurement of inland navigation vessels (Art. 14)	Multilateral	I:13899 Vol. 964
7 Mar.	New York (opened for signature)	International convention on the elimination of all forms of racial discrimination (Art. 22)	Multilateral	I:9464 Vol. 660
1967				
31 Jan.	New York	Protocol relating to the status of refugees (Art. IV)	Multilateral	I:8791 Vol. 606
14 Feb.	Mexico City	Treaty for the prohibition of nuclear weapons in Latin America (Art. 24)	Multilateral	I:9068 Vol. 634
14 Mar.	Manila	Trade agreement (Art. IX)	Belgium, Luxembourg, Netherlands/ Philippines	I:12382 Vol. 863
24 May	Kabul	Agreement relating to air services (Art. IX)	Denmark/ Afghanistan	I:9951 Vol. 695
1 June	London	Convention on conduct of fishing operations in the North Atlantic (Art. 13)	Multilateral	I:15849 Vol. 1051
10 July	Paris	International agreement on the procedure for the establishment of tariffs for scheduled air services (Art. 4)	Multilateral	I:9971 Vol. 696
14 July[1]	Stockholm	Convention for the protection of industrial property signed at Paris on 20 March 1883, as revised (Art. 28)	Multilateral	I:11851 Vol. 828
1968				
23 Feb.	Brussels	Protocol amending the international convention for the unification of certain rules of law relating to bills of lading, signed at Brussels on 25 August 1925 (Art. 8)	Multilateral	I:23643

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[1] The date and the place given here are those of the signature of the revised Convention.

1968 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
8 Nov.	Vienna	Convention on road traffic (Art. 52)	Multilateral	I: 15705 Vol. 1042
8 Nov.	Vienna	Convention on road signs and signals (Art. 44)	Multilateral	I: 16743 Vol. 1091
1969				
13 Feb.	Geneva	Agreement establishing the European Molecular Biology Conference (Art. VIII)	Multilateral	I: 10462 Vol. 727
23 May	Vienna	Convention on the law of treaties (Art. 66)	Multilateral	I: 18232 Vol. 1155
25 July	Boston	International health regulations (Art. 106)	Multilateral	I: 10921 Vol. 764
2 Sep.	Washington	Consular convention (Art. 46)	Belgium/United States	I: 13178 Vol. 924
8 Sep.	Mexico City	Convention on the privileges and immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America (Art. 7)	Multilateral	I: 16545
30 Dec.	Belgrade	Consular convention (Art. 46)	Belgium/Yugoslavia	I: 13441 Vol. 943
1970				
23 Apr.	Brussels	International convention on travel contracts (Art. 32, para. 2)	Multilateral	I: 21051
19 June	Washington	Treaty on patent co-operation (Art. 59)	Multilateral	I: 18336 Vol. 1160
1 Dec.	Rome	Agreement for the establishment of a commission for controlling the desert locust in North-West Africa (Art. XVI)	Multilateral	I: 11354 Vol. 797
16 Dec.	The Hague	Convention on the suppression of the unlawful seizure of aircraft (Art. 12, para. 1)	Multilateral	I: 12325 Vol. 860
1971				
21 Feb.	Vienna	Convention on psychotropic substances (Art. 31)	Multilateral	I: 14956 Vol. 1019
14 July	Brussels	Treaty of commerce (Art. 11)	Belgium, Luxembourg, Netherlands/USSR	I: 12656 Vol. 883
17 July	Accra	Agreement for the provision of a special loan to the Government of the Republic of Ghana to facilitate the payment of medium term commercial debts (Art. VII)	United Kingdom/Ghana	I: 11467 Vol. 805

1971 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
24 July[1]	Paris	Convention for the protection of literary and artistic works signed at Berne on 9 September 1886, as revised (Art. 33)	Multilateral	I:25986
24 July	Paris	Universal copyright convention, signed at Geneva on 6 September 1952, as revised (Art. XV)	Multilateral	I:13444 Vol. 943
23 Sep.	Montreal	Convention for the suppression of unlawful acts against the safety of civil aviation (Art. 14)	Multilateral	I:14118 Vol. 974
6 Oct.	Paris	Convention on the establishment of the International Institute for the Management of Technology (Art. 7)	Multilateral	I:14566 Vol. 995
1972				
28 Apr.	Ankara	Consular convention (Art. 58)	Belgium/Turkey	I:15142 Vol. 1029
16 May	Basle	European convention on State immunity (Art. 34)	Multilateral	I:25699
1973				
10 May	Geneva	Agreement establishing the European Molecular Biology Laboratory (Art. XII)	Multilateral	I:13668 Vol. 954
12 June	The Hague	Protocol relating to refugee seamen (Art. II)	Multilateral	I:13928 Vol. 965
22 June	Rome	Agreement for the establishment of a Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific (Art. XX)	Multilateral	I:14604 Vol. 997
5 Oct.	Munich	Convention on the grant of European patents (Art. 173)	Multilateral	I:16208
19 Nov.	Montevideo	Treaty of the La Plata River and its maritime limits (Art. 87)	Uruguay/Argentina	I:21424 Vol. 1295
30 Nov.	New York	International convention on the suppression and punishment of the crime of *apartheid* (Art. XII)	Multilateral	I:14861 Vol. 1015
14 Dec.	New York	Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents (Art. 13)	Multilateral	I:15410 Vol. 1035

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[1] The date and the place given here are those of the signature of the revised Convention.

1974	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
19 Feb.	Madrid	Agreement on the delimitation of the continental shelf (Art. 3, para. 2)	Italy/Spain	
22 Mar.	Helsinki	Convention on the protection of the marine environment of the Baltic Sea area (Art. 18, para. 2)	Multilateral	I: 18338
16 May	Khartoum	Agreement relating to the joint exploitation of the natural resources of the sea-bed and subsoil of the Red Sea in the common zone (Art. XVI)	Sudan/ Saudi Arabia	I: 13605 Vol. 952
1975				
26 Feb.	Salto	Treaty concerning the status of the river Uruguay (Art. 60)	Uruguay/ Argentina	I: 21425 Vol. 1295
8 Aug.	New York	Single convention on narcotic drugs, 1961, as amended (Art. 48)	Multilateral	I: 14152 Vol. 1976
1977				
24 May	Athens	Agreement on the delimitation of the respective continental shelves of the two States (Art. IV)	Greece/Italy	I: 21048 Vol. 1275
1978				
5 July	Geneva	Protocol to the convention on the contract for the international carriage of goods by road (CMR) (Art. 8)	Multilateral	I: 19487 Vol. 1208
1979				
30 Mar.	Geneva	International agreement on olive oil (Art. 14, para. 2)	Multilateral	I: 19674 Vol. 1219
10 May	Manila	Treaty of amity, commerce and navigation (Art. XV, para. 2)	Japan/Philippines	I: 20979 Vol. 1272
17 Dec.	New York	International convention against the taking of hostages (Art. 16, para. 1)	Multilateral	I: 21931 Vol. 1316
18 Dec.	New York	Convention on the elimination of all forms of discrimination against women (Art. 29)	Multilateral	I: 20378 Vol. 1249
1980				
20 May	Canberra	Convention on the conservation of Antarctic marine living resources	Multilateral	I: 22301
30 Oct.	Lima	General peace treaty (Arts. 31-36 and 39)	El Salvador/ Honduras	I: 21856 Vol. 1310

1981	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
23 Jan.	Cotonou	Agreement concerning technical co-operation (Art. XI)	Switzerland/Benin	I: 19804 Vol. 1226
1984				
10 Dec.	New York	Convention against torture and other cruel, inhuman or degrading treatment or punishment (Art. 30, para. 1)	Multilateral	I: 24841
1985				
22 Mar.	Vienna	Vienna convention for the protection of the ozone layer (Art. 11)	Multilateral	I: 26164
10 Dec.	New York	International convention against *apartheid* in sports (Art. 19)	Multilateral	I: 25822
1986				
21 Mar.	Vienna	Vienna convention on the law of treaties between States and international organizations or between international organizations (Art. 66, para. 2)	Multilateral	
1988				
*10 Mar.	Rome	Convention for the suppression of unlawful acts against the safety of maritime navigation (Art. 18, para. 1)	Multilateral	I: 29004
20 Dec.	Vienna	United Nations convention against illicit traffic in narcotic drugs and psychotropic substances (Art. 32)	Multilateral	I: 27627
1989				
4 Dec.	New York	International convention against the recruitment, use, financing and training of mercenaries (Art. 17, para. 1)	Multilateral	
1991				
1 Mar.	Montreal	Convention on the marking of plastic explosives for the purpose of detection (Art. XI, para. 1)	Multilateral	
1992				
9 May	New York	United Nations framework convention on climate change	Multilateral	
5 June	Rio de Janeiro	Convention on biological diversity (Art. 27, para. 3)	Multilateral	

1993	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
*13 Jan.	Paris	Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction (Art. XIV, para. 2)	Multilateral	

CHAPTER V

FUNCTIONING AND PRACTICE OF THE COURT

In matters concerning its administration and procedure, the International Court of Justice applies Articles 21, 22 and 39-68 of its Statute and Articles 12, 19-31 and 38-109 of its Rules.

I. SEAT

The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the *Permanent Court of International Justice* as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978.

An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946. It provides for the payment to the Carnegie Foundation of an annual contribution (see Chap. VIII, p. 289, below).

II. ADMINISTRATION

1. The Presidency and the Committees of the Court

The President shall preside at all meetings of the Court; he shall direct the work and supervise the administration of the Court (Rules, Art. 12)[1].

Decisions which have to be taken by the Court on administrative matters are prepared by a Budgetary and Administrative Committee composed of the President, the Vice-President and five judges who are elected annually (at present Judges Schwebel, Bedjaoui, Tarassov, Guillaume and Shahabuddeen).

In 1967 the Court established a Committee on Relations. Its present members are Judges Bedjaoui, Ni and Aguilar Mawdsley. This committee is responsible for preparing plans and programmes with a view to the wider dissemination of information on the work of the Court and the maintenance of its relations with other United Nations organs, the specialized agencies, and international bodies and conferences concerned with the codification and progressive development of international law.

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[1] Occasionally the President is requested by third persons to undertake tasks outside the judicial work of the Court. These activities are described at the end of this chapter (pp. 149-150, below).

In 1970 the Court established a Library Committee (at present Judges Ago, Weeramantry and Ranjeva) to review the programme of acquisitions for the library of the Court and supervise the continuous modernization of its services.

In 1979 the Court constituted the Rules Committee as a standing body. Its members are at present Judges Ago, Bedjaoui, Ni, Evensen and Tarassov.

Each year, in application of Article 11 of the Staff Regulations for the Registry, which came into force in 1979, the Court elects a Judge and Alternate Judge for Staff Appeals. Judges Evensen and Bedjaoui, respectively, hold these offices at present.

2. *The Registry*

The Registry is the administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Rules, Arts. 22-29). The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar, and Instructions for the Registry are drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The instructions drawn up in October 1946 were amended in March 1947 and September 1949 (*I.C.J. Yearbook 1946-1947*, pp. 72-87; *I.C.J. Yearbook 1949-1950*, p. 24).

(a) *The Registrar and the Deputy-Registrar*

The Court appoints its Registrar from among candidates proposed by Members of the Court; he is elected for a term of seven years and may be re-elected (Statute, Art. 21, para. 2; Rules, Art. 22). The Court also appoints a Deputy-Registrar, under the same conditions and in the same way as the Registrar (Rules, Art. 23).

The general functions of the Registrar are defined by the Rules of Court (Art. 26) and the Instructions for the Registry (Art. 1). Under the Instructions: "the Registrar is responsible for all departments of the Registry. The Staff is under his control and he alone is authorized to direct the work of the Registry, of which he is the Head." He is assisted by the Deputy-Registrar and, in the event of his absence, is replaced by the Deputy-Registrar or, failing him, an official of the Registry appointed by the President (Rules, Art. 27; Instructions for the Registry, Arts. 2 and 42).

The present Registrar is Mr. Eduardo Valencia-Ospina, of Colombian nationality, who was elected on 19 February 1987. He was previously the Court's Deputy-Registrar (1984-1987) and before that had served as the senior legal officer of the Codification Division at the Office of Legal Affairs in the United Nations Secretariat.

The Deputy-Registrar is Mr. Bernard Noble, of British nationality, previously a First Secretary of the Court, who was also elected on 19 February 1987.

Previous Registrars of the Court were E. Hambro (1946-1953), J. López-Oliván (1953-1960), J. Garnier-Coignet (1960-1966), S. Aquarone (1966-1980) and S. Torres Bernárdez (1980-1986). Previous Deputy-Registrars were J. Garnier-Coignet (1946-1960), S. Aquarone (1960-1966), W. Tait (1966-1976), A. Pillepich (1977-1984), and E. Valencia-Ospina (1984-1987).

(b) *Departments of the Registry*

The officials of the Registry are appointed by the Court on proposals submitted by the Registrar (Statute, Art. 21, para. 2; Rules, Art. 25). General Service category and temporary staff, however, are appointed by the Registrar (Rules, Art. 25; Staff Regulations for the Registry, Art. 5; Instructions for the Registry, Art. 4).

All officials of the Registry, whether permanent or temporary, must be proficient in English and French and those whose work involves linguistic responsibilities must have one of these languages as their first language.

The following table gives a list of officials employed by the Registry (both on a permanent basis and under fixed-term contracts) as at 31 July 1993, showing the posts they occupy with references, where appropriate, to the articles of the Instructions for the Registry in which their duties are defined.

	Date of assumption of duties	*Nationality*
Secretaries of the Court (Art. 43)		
Principal Legal Secretary		
H. W. A. Thirlway	1 September 1968	British
First Secretary		
R. Lavalle	1 September 1991	Guatemalan
Secretaries		
A. Brouillet	13 June 1988	French
A. Th. Witteveen In charge of information matters	15 July 1975	Dutch
Ph. Couvreur	13 April 1982	Belgian
Linguistic Staff		
Mrs. J. E. Bouri	1 July 1986	British
F. Mengin	5 May 1986	French
Legal Officer		
J.-P. Isselé	5 April 1988	French

Special Assistants

C. D. McAuliffe	1 November 1991	Irish
P. H. F. Bekker	1 May 1992	Dutch

Information Officer

Mrs. N. Choucri El-Erian	1 March 1982	Egyptian

Administrative Assistants

Mrs. M. G. A. van Haasbergen	1 March 1985	French
Miss M. D. Donnelly	1 January 1985	British

Establishment (Arts. 54-66)

M. Mendella Accountant/Establishment Officer, Head of Department	1 April 1986	Canadian
C. Uriot	1 March 1981	Dutch
T. Komnenović	1 August 1973	Yugoslav
B. J. van Veen	1 March 1982	Dutch

Telephonists-Receptionists

Mrs. J. Koot-Jager	1 March 1978	Dutch
Mrs. E. Keijman	1 April 1978	Dutch

Messengers

I. J. van der Meer Co-ordinator	1 June 1980	Dutch
F. Koch	1 September 1985	Dutch
D. Driessen	1 April 1982	Dutch

Security Guard

R. Pijl	1 January 1990	Dutch

Shorthand and Typewriting Department (Art. 53)

Mrs. N. Juszezak Head of Department	1 January 1979	French
Miss C. Rakoto	5 September 1983	Malagasy
Mrs. J. Devisme	1 January 1986	French
Mrs. C. Wainwright	1 January 1990	Australian
Mrs. F. Collins	1 January 1990	British
Mrs. D. Roodbol	1 January 1990	French
Miss V. Primas	1 January 1990	French
G. D'Olivo	4 February 1982	Italian
M. Sow	1 August 1985	Senegalese

Judges' Secretaries

Mrs. M. de Meyier Co-ordinator	1 January 1982	French and Dutch
Mrs. R. Snoeck	10 January 1977	French and Dutch
Miss W. Ch. Deelder	1 July 1982	Dutch
Mrs. J. van Hamel	1 November 1985	British
Mrs. L. Speeleveld	1 January 1986	Belgian
Miss H. H. Muyen	1 June 1987	Dutch
Miss L. E. Brown	1 January 1990	British
Mrs. M. Cleary-Cogan	1 January 1990	British
Mrs. A. Rowland-Moore	1 January 1990	British
Miss M. Sullivan	1 January 1990	British
Mrs. D. Bloemendaal	1 April 1990	British

Archives (Arts. 44-52)

Miss M. S. Lycett Head of Department	1 July 1980	British
S. R. S. Bedi	16 September 1985	Indian
D. van Rooy	16 April 1975	Dutch
S. Cantarella	9 April 1981	Italian
J. Pronk	1 January 1981	Dutch

Printing Department (Arts. 67-69)

P. Vio Head of Department	1 June 1974	Italian
S. H. Herd	1 August 1987	British

Documents Department (Arts. 70-73)

A. C. G. M. Eyffinger Librarian, Head of Department	1 February 1988	Dutch
Mrs. R. S. B. van Megen	13 August 1973	Dutch
M. Schiethart	1 January 1981	Dutch
G. Vooijs	1 January 1981	Dutch

(c) *Staff Regulations for the Registry*

Article 28, paragraph 4, of the Rules of Court states:

> "The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, so far as possible in conformity with the United Nations Staff Regulations and Staff Rules, and approved by the Court."

On 7 March 1979 the Court adopted new Staff Regulations for the Registry, which are reproduced in Chapter VI of the *I.C.J. Yearbook 1978-1979* (pp. 127-131). In November 1987 these Staff Regulations were amended (see *I.C.J. Yearbook 1988-1989*, pp. 163-164).

Before 1979 staff members of the Registry had been subject to Staff Regulations adopted by the President and approved by the Court in March 1947 in accordance with Article 18, paragraph 2, of the 1946 Rules of Court; these Staff Regulations had been amended in February and March 1950 and in June 1951 (see *I.C.J. Yearbook 1946-1947*, pp. 66-71; *I.C.J. Yearbook 1949-1950*, pp. 23-24; *I.C.J. Yearbook 1950-1951*, pp. 25-27).

(d) *Privileges and immunities*

In the Netherlands, in accordance with the terms of an exchange of letters, dated 26 June 1946, between the President of the Court and the Minister for Foreign Affairs of the Netherlands, the Registrar is, in a general way, accorded the same treatment as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands, and officials of the Registry are treated as officials of comparable rank attached to diplomatic missions at The Hague (*I.C.J. Acts and Documents No. 5*, pp. 201-207).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 207-211) the General Assembly of the United Nations recommended that, on journeys in connection with the exercise of his functions, the Registrar should enjoy all the privileges, immunities and facilities granted to diplomatic envoys and that the officials of the Registry should, in the same circumstances, enjoy such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

This resolution also contains a recommendation calling upon Members of the United Nations to recognize and accept the United Nations laissez-passer issued to the Registrar and officials of the Registry by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations. They are signed by the President of the Court and by the Registrar.

3. *Relations with the Public*

(a) *Correspondence*

Article 26, paragraph 1 *(a)*, of the Rules of Court states that the Registrar shall "be the regular channel for communications to and from the Court".

Consequently, correspondence should be addressed to *The Registrar, International Court of Justice, Peace Palace, 2517 KJ The Hague, Netherlands* (telegraphic address: INTERCOURT THE HAGUE; telex: 32323; Telefax 364 99 28). It should be written in either English or French[1].

A special issue of postage stamps is used by the Netherlands postal administration for the franking of correspondence from the Court.

The Court's telephone number is (070) 302 23 23.

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[1] It is not possible for the Registry to give legal advice or to enter into correspondence with private persons concerning any matter at issue between them and the authorities of their own or another country.

(b) *Access to the Court's library and archives*

The library of the Court is separate from the library of the Peace Palace, which is situated in the same building but is administered by the Carnegie Foundation. The relations between the two libraries were the subject of an exchange of notes dated 29 and 30 July 1946 (*I.C.J. Yearbook 1946-1947*, pp. 98-99). The public has access to the Peace Palace Library, but the library of the Court is private.

The Court's library keeps the archives of the Nuremberg *International Military Tribunal*, as entrusted to the Court pursuant to a decision of that Tribunal dated 1 October 1946. These archives, which relate solely to the trial of the major war criminals tried in 1945-1946, may be consulted on written application to the Registrar.

Neither the archives of the Court itself nor those of the *Permanent Court of International Justice* are open to the public (Rules, Art. 26, para. 1 *(n)*).

(c) *Information*

Article 26, paragraph 1 *(k)* and *(m)*, of the Rules of Court provides that the Registrar shall "deal with enquiries concerning the Court and its work" and "ensure that information concerning the Court and its activities is made accessible to governments, the highest national courts of justice, professional and learned societies, legal faculties and schools of law, and public information media". For the purpose of carrying out this function, the Registrar is assisted by one of the Secretaries.

The Registrar arranges as he considers necessary for the publication of information concerning the composition, jurisdiction and work of the Court, and the cases before the Court[1].

The following documentation, issued separately in English and in French, is available free of charge on application to the Registry:

Press Communiqués;

Background Notes, of which four are available:

- *II* and *II bis. Synopsis of cases referred to the International Court of Justice (1947-1969* and *1969-1976);*
- *IV. Note by the Registry indicating the Rules of Court amended on 10 May 1972;*
- *V. Note by the Registry on the Revised Rules of Court (1978);*
- *VI. Collected unofficial summaries of decisions concerning the law of the sea (1946-1986).*

Also obtainable, from the Registry or United Nations Information Centres, are:

– a popular handbook on *The International Court of Justice*, published in Arabic, Chinese, English, French, Russian, Spanish and German editions, which is in particular distributed in the framework of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law;

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[1] These publications are distinct from the publications of the Court issued by the Registry: see below, Chap. VII, pp. 254-256.

- a booklet on the Court published by the United Nations Department of Public Information in English, French, Spanish and Dutch editions;
- unofficial Arabic, Chinese, Russian and Spanish texts of the Rules of Court.

A film on the Court by the United Nations Department of Public Information is also available on application to that Department or to a United Nations Information Centre.

Groups often ask to visit the Registry and have the way the Court functions explained to them. So far as the work of the Court permits, the Registrar accedes to requests of this kind. During the period under review the Court received 114 groups including scholars and academics, judges and representatives of judicial authorities, lawyers and legal professionals, as well as others, amounting to some 3,300 persons in all.

Information on the assistance given members of the public and representatives of the press to help them follow the proceedings in cases before the Court will be found within the following section (pp. 143, 144, 148).

III. PRACTICE IN REGARD TO PROCEDURE[1]

1. General

(a) *Official languages*

The official languages of the Court are French and English (Statute, Art. 39; Rules, Arts. 51, 70 and 71).

(b) *Official communications*

In all cases submitted to the Court, communications and documents for the Court are delivered to the Registrar and he is the regular channel for communications or notifications from the Court (Rules, Art. 26, para. 1, and Art. 30; Instructions for the Registry, Arts. 3, 11 and 13).

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[1] For decisions taken by the Court involving the application of its Statute and Rules in procedural matters, see *I.C.J. Yearbook 1962-1963*, pp. 91-137; *I.C.J. Yearbook 1963-1964*, pp. 99-109; *I.C.J. Yearbook 1964-1965*, pp. 87-88; *I.C.J. Yearbook 1965-1966*, pp. 91-92; *I.C.J. Yearbook 1966-1967*, p. 87; *I.C.J. Yearbook 1967-1968*, pp. 87-92; *I.C.J. Yearbook 1968-1969*, pp. 108-112; *I.C.J. Yearbook 1969-1970*, pp. 113-115; *I.C.J. Yearbook 1970-1971*, pp. 109-113; *I.C.J. Yearbook 1971-1972*, pp. 123-125; *I.C.J. Yearbook 1972-1973*, pp. 136-143; *I.C.J. Yearbook 1973-1974*, pp. 125-129; *I.C.J. Yearbook 1974-1975*, pp. 120-123; *I.C.J. Yearbook 1975-1976*, pp. 118-123; *I.C.J. Yearbook 1976-1977*, pp. 113-114; *I.C.J. Yearbook 1977-1978*, pp. 111-119; *I.C.J. Yearbook 1978-1979*, pp. 124-131; *I.C.J. Yearbook 1979-1980*, pp. 125-129; *I.C.J. Yearbook 1980-1981*, pp. 133-137; *I.C.J. Yearbook 1981-1982*, pp. 141-147; *I.C.J. Yearbook 1982-1983*, pp. 125-126; *I.C.J. Yearbook 1983-1984*, pp. 140-141; *I.C.J. Yearbook 1984-1985*, pp. 173-184; *I.C.J. Yearbook 1985-1986*, pp. 164-172; *I.C.J. Yearbook 1986-1987*, pp. 158-163; *I.C.J. Yearbook 1987-1988*, pp. 146-151; *I.C.J. Yearbook 1988-1989*, pp. 159-164; *I.C.J. Yearbook 1989-1990*, pp. 157-162; *I.C.J. Yearbook 1990-1991*, pp. 174-182; *I.C.J. Yearbook 1991-1992*, pp. 198-204; and pp. 242-248 in Chapter VI, below.

Communications in a case which are intended for a State party thereto are sent to its agent at the Hague address it designates for the purpose (Rules, Art. 40, para. 1).

For communications with other States, the Registrar requests the foreign ministers of States entitled to appear before the Court to indicate the channel through which their governments would wish to receive such communications. The channel of communication indicated is usually the Embassy in The Hague or the Ministry of Foreign Affairs of the State in question.

For public international organizations, the Registrar addresses the communications of the Court to the Director-General or Secretary-General of the organization as the case may be.

(c) *Minutes*

The Registrar is present at all sittings and meetings of the Court and is responsible for drawing up the minutes. After being signed by the President and the Registrar, these minutes are filed in the archives (Statute, Art. 47; Rules, Art. 21, Art. 26, para. 1 *(f)-(i)*, and Art. 71; Instructions for the Registry, Art. 19).

(d) *General List*

The Registrar prepares and keeps up to date a General List of cases submitted to the Court (Rules, Art. 26, para. 1 *(b)*, and Art. 38, para. 5; Instructions for the Registry, Art. 6, para. 1, and Art. 46, para. 3).

Extracts from the General List are supplied by the Registry on request, in the form of *Background Notes II* and *II bis: Synopsis of cases referred to the International Court of Justice (1947-1969* and *1969-1976)*.

(For the General List of the *Permanent Court of International Justice*, see *P.C.I.J., Series E, No. 16*, pp. 92-147.)

2. Procedure in Contentious Cases

(a) *Institution of proceedings and appointment of agents*

As soon as proceedings are instituted (see Chap. III, pp. 63-64, above), the special agreement or the application, filed in one of the two official languages of the Court, is translated and printed in a bilingual edition by the Registry, then communicated to all concerned and to the States entitled to appear before the Court (Statute, Art. 40; Rules, Art. 38, paras. 4 and 5; Art. 39, para. 1, and Art. 42).

The Registrar arranges for the publication of a communiqué informing the general public and the press that proceedings have been instituted. Copies of the special agreement or application may be obtained on request.

The party which files a document instituting proceedings informs the Court at the same time of the name of the agent who will be its representative in the proceedings and take steps on its behalf; the other party then appoints its agent as soon as possible (Statute, Art. 42; Rules, Art. 40). A party may also appoint a co-agent, a deputy-agent or an additional agent. Agents, and counsel and advocates also, enjoy such privileges and immunities as may be required for the independent exercise of their duties (Statute, Art. 42, para. 3; *I.C.J. Acts and Documents No. 5*, pp. 205 and 209).

The President, who is required to ascertain the views of the parties on questions of procedure, summons the agents to meet him as soon as possible after their appointment and whenever necessary thereafter (Rules, Art. 31).

(b) *Written proceedings*

The written proceedings comprise the filing of pleadings within time-limits fixed in orders made by the Court or, if it is not sitting, the President; the pleadings are in principle confined to a Memorial and a Counter-Memorial, though the Court may if it thinks fit authorize or direct that there be a Reply and a Rejoinder (Statute, Art. 43; Rules, Arts. 44-46 and 48; Instructions for the Registry, Art. 14).

The party's submissions are set out in each pleading (Rules, Art. 49).

The agent of the party filing the pleading supplies the Registry (Statute, Art. 43, paras. 3 and 4; Rules, Arts. 50-52) with the following:

- an original copy of the pleading, signed by him, to which is annexed a certified copy of any relevant document adduced in support of the contentions put forward;
- an English or French translation, certified by him to be accurate, of any part of a pleading or annexed document submitted in another language;
- a copy, certified by him, of the pleading and annexed documents, for communication to the other party;
- 125 further copies of the pleading and annexed documents;
- in the case of any document of which only parts are relevant and only necessary extracts have been annexed to the pleading, a copy of the whole document.

The format for the pleadings and annexes is 19 × 26 cm. If they are submitted in printed form, which is not compulsory, it is recommended that the Court's Typographical Rules (supplied by the Registry on request) be complied with. If the composition is entrusted to one of the printers who work for the Court, so that it is not necessary to re-compose the texts when they come to be used in the Court's series *Pleadings, Oral Arguments, Documents* (see *(e)* below), the Court will at that stage reimburse half the cost, at the normal rate, of the composition of the pleading itself and of such annexes as are to be reproduced in the

Pleadings series (but excluding any text in a language other than English or French or entirely reproduced from another printed pleading).

The Registry usually translates, for the judges, pleadings and annexed documents, filed in one of the official languages of the Court, into the other official language (Rules, Art. 26, para. 1 *(g)*).

The Registrar arranges for the publication of communiqués giving information concerning the course of the written proceedings. Moreover, the Court may, after ascertaining the views of the parties, communicate the pleadings on request to any State entitled to appear before the Court. It may also, after ascertaining the parties' views, make the pleadings available to the general public and the press on or after the opening of the oral proceedings (Rules, Art. 53); this is generally done by depositing copies in a number of Information Centres and libraries, including the Peace Palace Library. The pagination of the pleadings and annexed documents which may thus be made accessible is provisional in character. They are not given their final pagination until they are published in the *I.C.J. Pleadings* series (see *(e)* below).

(c) *Oral proceedings*

Upon the closure of the written proceedings, a case is ready for hearing. The opening date of the oral proceedings is fixed by the Court or, if it is not sitting, the President (Rules, Art. 54). Public sittings are held at the seat of the Court, usually from 10 a.m. to 1 p.m. on weekdays. They are devoted to hearing the arguments of counsel and such evidence of witnesses or experts as the parties may call; the Court itself may also arrange for a witness to be heard, entrust any individual, body or organization with the task of giving an expert opinion or decide on an inspection *in loco*[1] (Statute, Arts. 43-46 and 48-51; Rules, Arts. 57-68; Instructions for the Registry, Art. 20).

The Court settles the order in which the parties are heard, the number of counsel who will address the Court, and the method of handling the evidence (Rules, Art. 58, para. 2). It is customary for the parties to present their arguments in the order in which their pleadings have been deposited or, in the case of proceedings instituted by special agreement, in the order laid down by the Court after consultations with the agents of the parties. Speeches and statements are normally made in one of the Court's two official languages and are (simultaneously) interpreted into the other; arrangements may be made for some other language to be used (Statute, Art. 39; Rules, Art. 70; Instructions for the Registry, Art. 17).

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[1] In the *Corfu Channel (United Kingdom* v. *Albania)* case, the Court heard witnesses and experts presented by each of the Parties, appointed experts by Order and prescribed an enquiry on the spot. In the *Temple of Preah Vihear (Cambodia* v. *Thailand)* case, it heard witnesses and experts presented by each of the Parties. In the *South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa)* cases, it heard witnesses and experts presented by one Party, but did not accede to a request concerning an inspection *in loco.* In *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, it heard an expert presented by one Party. The Chamber constituted in the *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* case heard an expert presented by one Party and itself appointed, by Order, at the request of the Parties and in accordance with the Special Agreement concluded between them, a technical expert to assist it in its work. In the case concerning the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, the Court heard experts presented by each of the Parties. In the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)* it heard witnesses presented by one Party. The Chamber constituted in the case concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy)* heard witnesses presented by one of the Parties and experts presented by each of them. In the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* the Court heard a witness presented by one of the Parties, but did not accede to a request concerning an inspection *in loco.*

When the Court or a judge puts a question to the agents, counsel and advocates, the answer may be given either immediately or within a time-limit fixed by the President; if given in writing it is communicated to the other party (Rules, Art. 61, paras. 2-4, and Art. 72).

A provisional verbatim record of each public sitting is drawn up by the Registry in the official language used, and translated into the other; copies in the original official language are then communicated to the parties and to the witnesses and experts in order that mistakes may be corrected under the supervision of the Court (Statute, Art. 47; Rules, Art. 71). A period of 24 hours is usually allowed for the submission of corrections.

In the course of the hearings each party reads out its final submissions and hands the Registrar copies of the text (Rules, Art. 60, para. 2). The filing of new documents after closure of the written proceedings is permissible only with the other party's consent or the authorization of the Court; such documents must be filed in the same number of copies as the pleadings (see *(b)* above); the Registrar transmits them to the other party with a request for observations. No reference may be made to the contents of any document which has not been duly produced, unless the document is part of a publication readily available (Statute, Art. 52; Rules, Art. 56).

The Registrar issues communiqués giving all necessary information as to the dates of the hearings (Instructions for the Registry, Art. 12). Admission cards are issued to members of the diplomatic corps and to representatives of the press and also to any person who makes application either in writing or in person at the Peace Palace on the occasion of a hearing. Photographs may be taken before the opening of hearings. Filming for cinema or television purposes is, however, subject to special authorization. There is a Press Room within the Peace Palace, and also a Post Office where a number of telephones are available for the use of journalists. As soon as the provisional, uncorrected verbatim records of each hearing have been duplicated they are made available to representatives of the press, though neither the text nor the pagination is final at that stage (see *(e)* below).

(d) *Deliberations*

After the close of the oral proceedings, the Court withdraws to deliberate in private and to prepare a judgment. The deliberations of the

Court are conducted *in camera* and remain confidential. This applies to all aspects of the deliberations, including the schedule of meetings (Statute, Arts. 54-55; Rules, Arts. 19-21; Instructions for the Registry, Art. 16).

The manner in which the Court conducts its deliberations is governed by a resolution concerning the internal judicial practice of the Court, the most recent version of which was adopted on 12 April 1976 (see *I.C.J. Acts and Documents No. 5*, pp. 165-173).

(e) *Judgment*

The judgment is read out at a public sitting for which similar arrangements are made as for a hearing in open court, in particular with regard to the admission of the public and the assistance provided to representatives of the press (see *(c)* above). However, where photography or filming is intended for use in newsreels or television news, it may be authorized not only at the beginning of a sitting but also when the operative terms of the judgment are read out.

The judgment is prepared in both official languages, of which one is indicated as authoritative (Statute, Art. 39; Rules, Art. 96). If it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the judgment indicates the names of the judges constituting the majority (Statute, Arts. 56-58; Rules, Arts. 94 and 95).

Three original copies of the judgment are signed by the President and the Registrar and are then sealed; one is placed in the archives of the Court and the others are handed to the parties (Rules, Art. 95, para. 3; Instructions for the Registry, Art. 21).

Immediately after the public reading, copies of a special duplicated *tirage* are placed at the disposal of the judges and the representatives of the parties. At the same time an unofficial communiqué summarizing the decision is issued on the authority of the Registrar.

As soon as possible, the printed text of the judgment becomes available as a separate fascicle in the *I.C.J. Reports* series, which is sent to States entitled to appear before the Court and is placed on sale. Subsequently, the documentation of the case is published in one or more printed volumes of the series entitled *I.C.J. Pleadings, Oral Arguments, Documents*. It is these printed texts (see Chap. VII, pp. 254-255, below) which should be used for all purposes of quotation or citation.

(f) *Expenses and costs*

The expenses of the Court, including amounts payable to witnesses or experts appearing at the instance of the Court (Rules, Art. 68; Instructions for the Registry, Art. 18), are borne out of the United Nations budget; if a party to a case does not contribute to the United Nations budget, the Court itself fixes the amount payable by that party as a contribution towards the expenses of the Court for the case (see Chap. VIII, p. 283, below).

Each party bears its own costs, unless the Court makes an order in favour of a party for the payment of the costs (Statute, Art. 64; Rules, Art. 95, para. 1, and Art. 97).

In addition, there exists a Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, established on 1 November 1989[1]. The Fund is designed to encourage States to settle their disputes peaceably by submitting them to the Court. To be eligible for funding, a State must be entitled to appear before the Court (see Chapter III, pp. 55-62, for an explanation of which States are so entitled) and demonstrate a need for financial assistance. In addition, the dispute must be submitted to the Court by Special Agreement.

3. *Occasional Rules in Contentious Cases*

(a) *Provisional measures*

The Court has the power to indicate provisional measures (Statute, Art. 41). A request for such measures is treated as a matter of urgency, and the Court's decision is given in an order (Rules, Arts. 73-78)[2].

(b) *Joinder of proceedings*

The Court may direct that the proceedings in two or more cases be joined (Rules, Art. 47). It does this by means of an order[3].

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[1] Cf. United Nations doc. A/44/PV.43 (1989).

[2] Such provisional measures have been requested in the following 17 cases: *Anglo-Iranian Oil Co. (United Kingdom* v. *Iran); Interhandel (Switzerland* v. *United States of America); Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland); Nuclear Tests (Australia* v. *France) (New Zealand* v. *France); Trial of Pakistani Prisoners of War (Pakistan* v. *India); Aegean Sea Continental Shelf (Greece* v. *Turkey); United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran); Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America); Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Border and Transborder Armed Actions (Nicaragua* v. *Honduras)* (in this case the request was withdrawn); *Arbitral Award of 31 July 1989 (Guinea-Bissau* v. *Senegal); Passage through the Great Belt (Finland* v. *Denmark); Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America); Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro)).*

[3] Proceedings were joined in the following cases: *South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa); North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands).*

(c) *Preliminary objections*

Preliminary objections (see Chap. III, p. 65, above) must be filed within the time-limit fixed for the filing of the Counter-Memorial (Rules, Art. 79). They suspend the proceedings on the merits and may be answered by the observations and submissions of the opposing party, to be filed within a time-limit fixed by an order. Oral proceedings on the objections ensue, the party which raised them being called upon to speak first. The Court gives its decision on the objections in a judgment; if it dismisses them, the proceedings on the merits are resumed from the point of interruption; they are likewise resumed if it declares that the objections do not possess an exclusively preliminary character[1]. The Court may also give effect to an agreement between the parties that objections should be heard and determined within the framework of the merits[2].

(d) *Intervention, presentation of information*

A third State may request to be permitted to intervene if it considers that it has an interest of a legal nature which may be affected by the decision in the case; it is for the Court to decide upon such a request

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[1] The Court gave its decision on the preliminary objections raised in the following 15 cases: *Corfu Channel (United Kingdom* v. *Albania)*; *Ambatielos (Greece* v. *United Kingdom)*; *Anglo-Iranian Oil Co. (United Kingdom* v. *Iran)*; *Nottebohm (Liechtenstein* v. *Guatemala)*; *Monetary Gold Removed from Rome in 1943 (Italy* v. *France, United Kingdom and United States of America)*; *Certain Norwegian Loans (France* v. *Norway)*; *Right of Passage over Indian Territory (Portugal* v. *India)*; *Interhandel (Switzerland* v. *United States of America)*; *Aerial Incident of 27 July 1955 (Israel* v. *Bulgaria)*; *Temple of Preah Vihear (Cambodia* v. *Thailand)*; *South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa)*; *Northern Cameroons (Cameroon* v. *United Kingdom)*; *Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium* v. *Spain)*; *Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy)*; *Certain Phosphate Lands in Nauru (Nauru* v. *Australia)*. Preliminary objections on which the Court will yet have to give a decision have also been raised in a pending case: *Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America)*. In other cases the Court was not called upon to give a decision on the preliminary objections, either because they were withdrawn *(Rights of Nationals of the United States of America in Morocco (France* v. *United States of America))* or as the result of a discontinuance *(Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria)*; *Barcelona Traction, Light and Power Company, Limited* (first application) *(Belgium* v. *Spain)*; *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon))*. The Court also dealt with questions of jurisdiction or admissibility in the following nine cases: *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan)*; *Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland)*; *Nuclear Tests (Australia* v. *France) (New Zealand* v. *France)*; *Aegean Sea Continental Shelf (Greece* v. *Turkey)*; *United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran)*; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)*; *Border and Transborder Armed Actions (Nicaragua* v. *Honduras)*. The Court has still to decide questions of jurisdiction and admissibility in the pending cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* and *East Timor (Portugal* v. *Australia)*.

[2] This was done in *Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy)*. Preliminary objections were joined to the merits under the pre-1972 Rules of Court after agreement between the Parties in the case concerning *Certain Norwegian Loans (France* v. *Norway)* and by decision of the Court in the following two cases: *Right of Passage over Indian Territory (Portugal* v. *India)*; *Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium* v. *Spain)*.

(Statute, Art. 62; Rules, Arts. 81 and 83-85)[1]. If the dispute relates to the construction of a convention to which States other than those concerned in the case are parties, these States are notified forthwith and have the right to intervene in the proceedings (Statute, Art. 63; Rules, Arts. 43, 82-84 and 86)[2].

Similarly, public international organizations may, at the request of the Court or a party or on their own initiative, furnish the Court with information relevant to cases before it; whenever the construction of their constituent instruments or of a convention adopted thereunder is in question, they are notified (Statute, Art. 34, paras. 2 and 3; Rules, Art. 69).

(e) *Default, settlement, discontinuance*

If one of the parties does not appear before the Court or fails to defend its case, the other party may call upon the Court to decide in favour of its claim (Statute, Art. 53)[3].

The Court, or the President if the Court is not sitting, may, by way of an order, officially record the conclusion of a settlement or a discontinuance (Rules, Arts. 88 and 89)[4].

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[1] Permission to intervene was applied for in the *Nuclear Tests* cases *(Australia* v. *France) (New Zealand* v. *France)*, in the cases concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and the *Continental Shelf (Libyan Arab Jamahiriya/Malta)* and in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*.

[2] A third State intervened in the *Haya de la Torre (Colombia* v. *Peru)* case and a Declaration of Intervention was submitted in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)*.

[3] A number of judgments and orders were delivered in the absence of one of the parties: *Corfu Channel (United Kingdom* v. *Albania), Assessment of Amount of Compensation; Anglo-Iranian Oil Co. (United Kingdom* v. *Iran), Interim Protection; Nottebohm (Liechtenstein* v. *Guatemala), Preliminary Objection; Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland), Interim Protection, Jurisdiction of the Court* and *Merits; Nuclear Tests (Australia* v. *France) (New Zealand* v. *France), Interim Protection* and *Second Phase; Trial of Pakistani Prisoners of War (Pakistan* v. *India), Interim Protection; Aegean Sea Continental Shelf (Greece* v. *Turkey), Interim Protection* and *Jurisdiction of the Court; United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran), Provisional Measures* and *Merits; Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America), Merits.*

[4] The following ten cases ended in discontinuance: *Protection of French Nationals and Protected Persons in Egypt (France* v. *Egypt); Electricité de Beyrouth Company (France* v. *Lebanon); Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria) (United Kingdom* v. *Bulgaria); Barcelona Traction, Light and Power Company, Limited (Belgium* v. *Spain)* (first application); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon); Trial of Pakistani Prisoners of War (Pakistan* v. *India); Border and Transborder Armed Actions (Nicaragua* v. *Costa Rica); Border and Transborder Armed Actions (Nicaragua* v. *Honduras); Passage through the Great Belt (Finland* v. *Denmark)*. Furthermore, the cases concerning *United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran)* and *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)* ended in discontinuance as regarded the question of reparation which the Judgment had left to be settled.

(f) *Execution, interpretation or revision of judgments*

The judgments of the Court are binding, final and without appeal (Charter, Art. 94, para. 1; Statute, Arts. 59-60; Rules, Art. 94, para. 2). The parties may, however, make a request for interpretation or, in certain circumstances, for revision of a judgment (see above, Chap. III, pp. 65-66). The decision of the Court on such requests is given in the form of a judgment (Statute, Arts. 60-61; Rules, Arts. 98-100)[1,2].

Article 94, paragraph 2, of the Charter of the United Nations states that, if any party to a case fails to perform the obligations incumbent upon it under a judgment, the other party may have recourse to the Security Council.

(g) *Special reference to the Court*

When a matter which has been the subject of proceedings before some other international body is brought before the Court, the provisions of the Statute and of the Rules apply (Rules, Art. 87)[3].

4. *Procedure in Advisory Cases*

In addition to the Rules of Court which are expressly applicable to proceedings in regard to advisory opinions, the Court is guided by the provisions which apply in contentious proceedings (Statute, Art. 68; Rules, Art. 102). It may thus be led to apply the articles of the Statute concerning judges *ad hoc* (see Chap. I, pp. 13-16, above).

The practical information given concerning the course of the procedure in contentious cases (see under 2, above) applies *mutatis mutandis* to the procedure in regard to advisory opinions, in particular as regards arrangements for the public and the representatives of the press.

(a) *Request*

Notice of a request for an advisory opinion (see Chap. III, pp. 66-67, above) is addressed to the Court by the Secretary-General of the United Nations or the chief administrative officer of the organization authorized to make the request; all documents likely to throw light upon the question are to be transmitted at the same time as the request or as soon as possible thereafter (Statute, Art. 65, para. 2; Rules, Art. 104).

Notice of the request for an advisory opinion is given to all States entitled to appear before the Court (Statute, Art. 66, para. 1).

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[1] The Court gave a decision on a request for interpretation of its Judgment in the *Asylum (Colombia/Peru)* case. See also pp. 65, note 2, and 66, note 1, above.

[2] The Court gave a decision on an application for revision and interpretation submitted by Tunisia in connection with its Judgment in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

[3] The Court was seised of an *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan)* in the case of that name.

In addition, the Court gives the States and international organizations considered likely to be able to furnish information on the question an opportunity to submit their views in writing or orally, or both (Statute, Art. 66, paras. 2-4).

(b) *Written and oral proceedings*

A request for an opinion usually gives rise to written proceedings followed by oral proceedings (Statute, Art. 66; Rules, Arts. 105 and 106).

In the case of urgency, the Court takes all necessary steps to accelerate the procedure (Rules, Art. 103)[1].

(c) *Deliberations*

The deliberations are conducted in the same manner as in contentious cases (Rules, Arts. 19-21 and 107; resolution concerning the Internal Judicial Practice of the Court, Art. 10).

(d) *Advisory opinion*

The advisory opinion is read in open Court; if it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the advisory opinion indicates the names of the judges constituting the majority (Statute, Art. 67; Rules, Arts. 107 and 108).

One of the original copies of the advisory opinion is transmitted to the body which made the request (Rules, Art. 109).

The opinions given by the Court are purely advisory in character. The body requesting the opinion may however be committed to accepting it as binding by the terms of the instrument under which it is authorized to request advisory opinions of the Court.

IV. OCCASIONAL FUNCTIONS ENTRUSTED TO THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE

1. International Instruments Providing for Appointment of Arbitrators, etc.

There are many international instruments which provide that in certain eventualities the President of the Court may be requested by the contracting parties to appoint arbitrators, umpires, members of conciliation commissions, etc. Requests of this sort have always been acceded to.

States proposing to insert such a provision in a treaty generally consult the President as to his willingness to accept such a task, and submit the draft provision to him. This frequently provides that, if the President is of the nationality of one of the parties to the dispute, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

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[1] The Court decided to accelerate the procedure in accordance with Article 103 of the Rules in the case concerning the *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*.

Such a provision is found, for instance, in bilateral agreements relating to air transport, social security, reparations or guarantees, loans, technical co-operation and the protection of investments; in multilateral treaties; in conventions or agreements concerning the constitution, status or privileges and immunities of international organizations; and in agreements or contracts concluded between States and international organs.

2. *Other Requests for Appointment of Arbitrators*

The President of the Court is sometimes requested to appoint arbitrators under the terms of contracts concluded between a State and a corporation or between corporations. Such requests are generally acceded to.

In such cases, too, the usual practice is to consult the President in advance and to submit the draft contract to him. It is usually provided that if the President is of the same nationality as one of the parties to the contract, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

3. *Other Appointments*

The President has also at times been requested by States or international organizations to appoint persons to fill other offices.

Such appointments are, for instance, provided for in texts such as Article 12 of the Protocol of 23 June 1953 for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, or Article 4 of the Regulations for the execution of the Convention of 14 May 1954 for the protection of cultural property in the event of armed conflict or, again, Rule 109.1 *(a)* of the Staff Rules of the United Nations and Regulation 9.1.1 of the Staff Regulations of the United Nations Educational, Scientific and Cultural Organization.

CHAPTER VI

WORK OF THE COURT IN 1992-1993

During the period under review the Court was seised of three new contentious cases: *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))*, in which two requests for the indication of provisional measures were submitted, and *Gabčikovo-Nagymaros Project (Hungary/Slovakia)*. In the case concerning *Passage through the Great Belt (Finland* v. *Denmark)*, the proceedings were discontinued at Finland's request.

The Court held 34 public sittings and a number of private meetings. It delivered a Judgment on the merits in the case concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark* v. *Norway)*. It made an Order on the request by Bosnia and Herzegovina for the indication of provisional measures in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))*. It further made Orders fixing time-limits in the cases concerning *Certain Phosphate Lands in Nauru (Nauru* v. *Australia)* and *Gabčikovo-Nagymaros Project (Hungary/Slovakia)*.

The President of the Court made an Order in the case concerning *Passage through the Great Belt (Finland* v. *Denmark)* removing that case from the list. He further made Orders fixing or extending time-limits in the cases concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))* and *East Timor (Portugal* v. *Australia)*.

The Chamber constituted to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* held one public sitting and 20 private meetings. It delivered its Judgment on the merits in the case.

I. CASES BEFORE THE COURT

A. CONTENTIOUS CASES BEFORE THE FULL COURT

1. Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. *Norway)*

On 16 August 1988, the Government of Denmark filed in the Registry of the Court an Application instituting proceedings against Norway, citing as bases for the Court's jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

In its Application, Denmark explained that, despite negotiations conducted since 1980, it had not been possible to find an agreed solution to a dispute concerning the delimitation of Denmark's and Norway's fishing zones and continental shelf areas in the waters between the east coast of Greenland and the Norwegian island of Jan Mayen, where both Parties lay claim to an area of some 72,000 square kilometres.

It therefore requested the Court:

> "to decide, in accordance with international law, where a single line of delimitation shall be drawn between Denmark's and Norway's fishing zones and continental shelf areas in the waters between Greenland and Jan Mayen".

Denmark chose Mr. Paul Henning Fischer to sit as judge *ad hoc*. He made the solemn declaration required by the Statute and Rules of Court on 11 January 1993, at the opening of the oral proceedings in the case (see below, p. 242, under *(c)*).

On 14 October 1988 (*I.C.J. Reports 1988*, p. 66), the Court, taking into account the views expressed by the Parties, fixed 1 August 1989 as the time-limit for the Memorial of Denmark and 15 May 1990 for the Counter-Memorial of Norway. Both the Memorial and Counter-Memorial were filed within the prescribed time-limits.

Taking into account an agreement between the Parties that there should be a Reply and a Rejoinder, the President of the Court, by an Order of 21 June 1990 (*I.C.J. Reports 1990*, p. 89), fixed 1 February 1991 as the time-limit for the Reply of Denmark and 1 October 1991 as the time-limit for the Rejoinder of Norway. The Reply and the Rejoinder were filed within the prescribed time-limits.

Oral proceedings were held from 11 to 27 January 1993. During 11 public sittings, the Court heard statements made on behalf of Denmark and of Norway. Questions were put to both Agents by Vice-President Oda.

On 14 June 1993, at a public sitting, the Court delivered its Judgment (*I.C.J. Reports 1993*, p. 38), a summary of which is given below, followed by the text of the operative paragraph.

Review of the proceedings and summary of facts (paras. 1-21)

The Court outlined the successive stages of the proceedings as from the date the case was brought before it (paras. 1-8) and set out the submissions of the Parties (paras. 9-10). It recalled that Denmark, instituting proceedings on 16 August 1988, had asked the Court

> "to decide, in accordance with international law, where a single line of delimitation shall be drawn between Denmark's and Norway's fishing zones and continental shelf areas in the waters between Greenland and Jan Mayen";

and had, in the course of the proceedings, made the following submissions, asking the Court:

> "To adjudge and declare that Greenland is entitled to a full 200-mile fishery zone and continental shelf area vis-à-vis the island of Jan Mayen; and consequently
> To draw a single line of delimitation of the fishing zone and continental shelf area of Greenland in the waters between Greenland and Jan Mayen at a distance of 200 nautical miles measured from Greenland's baseline."
>
> "If the Court, for any reason, does not find it possible to draw the line of delimitation requested in paragraph (2), Denmark requests the Court to decide, in accordance with international law and in light of the facts and arguments developed by the Parties, where the line of delimitation shall be drawn between Denmark's and Norway's fisheries zones and continental shelf areas in the waters between Greenland and Jan Mayen, and to draw that line."

It likewise recalled that Norway had asked the Court to adjudge and declare that the median line constituted the boundary for the purposes of delimitation of the relevant areas of both the continental shelf and the fisheries zone between Norway and Denmark in the region between Jan Mayen and Greenland. The Court then described the maritime areas, which had featured in the arguments of the Parties (paras. 11-21).

The contention that a delimitation already exists (paras. 22-40)

A principal contention of Norway was that a delimitation had already been established between Jan Mayen and Greenland. The effect of treaties in force between the Parties – a bilateral Agreement of 1965 and the 1958 Geneva Convention on the Continental Shelf – had, according to Norway, been to establish the median line as the boundary of the continental shelf of the Parties, and the practice of the Parties in respect of fishery zones had represented a recognition of existing continental shelf boundaries as being also applicable to the exercise of fisheries jurisdiction. These contentions, that the applicability of a median line delimitation in the relations between the Parties had long been recognized in the context both of the continental shelf and of fishery zones and that a boundary was already in place, needed to be examined in the first place.

The 1965 Agreement (paras. 23-30)

On 8 December 1965 Denmark and Norway concluded an Agreement concerning the delimitation of the continental shelf. Article 1 of that Agreement read:

> "The boundary between those parts of the continental shelf over which Norway and Denmark respectively exercise sovereign rights shall be the median line which at every point is equidistant from the

> nearest points of the baselines from which the breadth of the territorial sea of each Contracting Party is measured."

Article 2 provided that "In order that the principle set forth in Article 1 may be properly applied, the boundary shall consist of straight lines" which were then defined by eight points, enumerated with the relevant geodetic co-ordinates and as indicated on the chart thereto annexed; the lines so defined lay in the Skagerrak and part of the North Sea, between the mainland territories of Denmark and Norway. Norway contended that the text of Article 1 was general in scope, unqualified and without reservation, and that the natural meaning of that text had to be "to establish definitively the basis for all boundaries which would eventually fall to be demarcated" between the Parties. In its view Article 2, which admittedly related only to the continental shelves of the two mainlands, was "concerned with *demarcation*". Norway deduced that the Parties were and remained committed to the median line principle of the 1965 Agreement. Denmark on the other hand argued that the Agreement was not of such general application and that its object and purpose was solely the delimitation in the Skagerrak and part of the North Sea on a median line basis.

The Court considered that the object and purpose of the 1965 Agreement was to provide simply for the question of the delimitation in the Skagerrak and part of the North Sea, where the whole sea-bed (with the exception of the "Norwegian Trough") consisted of continental shelf at a depth of less than 200 metres and that there was nothing to suggest that the Parties had had in mind the possibility that a shelf boundary between Greenland and Jan Mayen might one day be required, or had intended that their Agreement should apply to such a boundary.

After examining the Agreement in its context, in the light of its object and purpose, the Court also took into account the subsequent practice of the Parties, especially a subsequent treaty in the same field concluded in 1979. It considered that if the intention of the 1965 Agreement had been to commit the Parties to the median line in all ensuing shelf delimitations, it would have been referred to in the 1979 Agreement. The Court thus took the view that the 1965 Agreement did not result in a median line delimitation of the continental shelf between Greenland and Jan Mayen.

The 1958 Geneva Convention on the Continental Shelf (paras. 31-32)

The validity of the argument that the 1958 Convention resulted in a median line continental shelf boundary already "in place" between Greenland and Jan Mayen was found to depend on whether the Court found that there were "special circumstances" as contemplated by the Convention, a question that would be dealt with later. The Court therefore turned to the arguments which Norway had based upon the conduct of the Parties and of Denmark in particular.

Conduct of the Parties (paras. 33-40)

Norway contended that, at least up to some ten years previously, the Parties by their "conjoint conduct" had long recognized the applicability of a median line delimitation in their mutual relations. The Court observed that it was the conduct of Denmark which had primarily to be examined in that connection.

The Court was not persuaded that a Danish Decree of 7 June 1963 concerning the Exercise of Danish Sovereignty over the Continental Shelf supported the argument which Norway sought to base on conduct. Nor had a Danish Act of 17 December 1976 or an Executive Order of 14 May 1980, issued pursuant to that Act, committed Denmark to acceptance of a median line boundary in the area. An Agreement of 15 June 1979 between the Parties concerning the delimitation between Norway and the Faroe Islands did not commit Denmark to a median line boundary in a quite different area. Danish statements made in the course of diplomatic contacts and during the Third United Nations Conference on the Law of the Sea had also not prejudiced Denmark's position.

Summing up, the Court concluded that the Agreement entered into between the Parties on 8 December 1965 could not be interpreted to mean, as contended by Norway, that the Parties had already defined the continental shelf boundary as the median line between Greenland and Jan Mayen. Nor could the Court attribute such an effect to the provision of Article 6, paragraph 1, of the 1958 Convention, so as to conclude that by virtue of that Convention the median line was already the continental shelf boundary between Greenland and Jan Mayen. Nor could such a result be deduced from the conduct of the Parties concerning the continental shelf boundary and the fishery zone. In consequence, the Court did not consider that a median line boundary was already "in place", either as the continental shelf boundary, or as that of the fishery zone. The Court therefore proceeded to examine the law currently applicable to the delimitation question still outstanding between the Parties.

The applicable law (paras. 41-48)

The Court noted that the Parties differed on the question whether what was required was one delimitation line or two lines, Denmark asking for "a single line of delimitation of the fishery zone and continental shelf area", and Norway contending that the median line constituted the boundary for delimitation of the continental shelf, and also constituted the boundary for the delimitation of the fishery zone, i.e., that the two lines would coincide, but that the two boundaries would remain conceptually distinct.

The Court referred to the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* in which it had been asked what was "the course of the single maritime boundary that divides the continental shelf and fishery zones of Canada and the United States of America" (*I.C.J. Reports 1984*, p. 253). It observed that in the instant case it was not empowered – or constrained – by any agreement for a single dual-purpose boundary and that it had already found that there was not a continental shelf boundary already in place. It therefore went on to examine separately the two strands of the applicable law: the effect of Article 6 of the 1958 Convention if applied at the present time to the delimitation of the continental shelf boundary, and then the effect of the application of the customary law governing the fishery zone.

The Court further observed that the applicability of the 1958 Convention to the continental shelf delimitation in this case did not mean that Article 6 of that Convention could be interpreted and applied either without reference to customary law on the subject, or wholly independently of the fact that a fishery zone boundary was also in question in those waters. After examining the case-law in that field and the provisions of the 1982 United Nations Convention on the Law of the Sea, the Court noted that the statement (in those provisions) of an "equitable solution" as the aim of any delimitation process, reflected the requirements of customary law as regards the delimitation both of continental shelf and of exclusive economic zones.

The provisional median line (paras. 49-52)

Turning first to the delimitation of the continental shelf the Court found that it was appropriate, both on the basis of Article 6 of the 1958 Convention and on the basis of customary law concerning the continental shelf, to begin with the median line as a provisional line and then to ask whether "special circumstances" required any adjustment or shifting of that line. After a subsequent examination of the relevant precedents with regard to the delimitation of the fishery zones, it appeared to the Court that, both for the continental shelf and for the fishery zones in the instant case, it was proper to begin the process of delimitation by a median line provisionally drawn.

"Special circumstances" and "relevant circumstances" (paras. 54-58)

The Court then observed that it was called upon to examine every particular factor of the case which might suggest an adjustment or shifting of the median line provisionally drawn. The aim in each and every situation had to be to achieve "an equitable result". From that standpoint, the 1958 Convention required the investigation of any "special circumstances"; while, on the other hand, the customary law based upon equitable principles required the investigation of "relevant circumstances".

The concept of "special circumstances" had been included in the 1958 Geneva Conventions on the Territorial Sea and the Contiguous Zone (Art. 12) and on the Continental Shelf (Art. 6, paras. 1 and 2). It had been and remained linked to the equidistance method there contemplated. It was thus apparent that special circumstances were those circumstances which might distort the result produced by an unqualified application of the equidistance principle. General international law had employed the concept of "relevant circumstances". That concept could be defined as a fact necessary to be taken into account, in the delimitation process, to the extent that it affected the rights of the Parties over certain maritime areas. Although it was a matter of categories which were different in origin and in name, there was inevitably a tendency towards assimilation between the special circumstances of Article 6 of the 1958 Convention and the relevant circumstances under customary law, if only because they were both intended to enable the achievement of an equitable result. This had to be especially true in the case of opposite coasts where, as had been seen, the tendency of customary law, like the terms of Article 6, had been to postulate the median line as leading prima facie to an equitable result.

The Court then turned to the question whether the circumstances of the instant case required adjustment or shifting of that line, taking into account the arguments relied on by Norway to justify the median line, and the circumstances invoked by Denmark as justifying the 200-mile line.

Disparity of length of coasts (paras. 61-71)

A first factor of a geophysical character, and one which had featured most prominently in the argument of Denmark, in regard to both continental shelf and fishery zone, was the disparity or disproportion between the lengths of the "relevant coasts".

Prima facie, a median line delimitation between opposite coasts resulted in general in an equitable solution, particularly if the coasts in question were nearly parallel. There were however situations – and the instant case was one such – in which the relationship between the length of the relevant coasts and the maritime areas generated by them by application of the equidistance method was so disproportionate that it had been found necessary to take that circumstance into account in order to ensure an equitable solution.

In the light of the existing case-law the Court came to the conclusion that the striking difference in length of the relevant coasts in the case in hand (which had been calculated as approximately 9 (for Greenland) to 1 (for Jan Mayen)) constituted a special circumstance within the meaning of Article 6, paragraph 1, of the 1958 Convention. Similarly, as regards the fishery zones, the Court was of the opinion that the application of the median line led to manifestly inequitable results.

It followed that, in the light of the disparity of coastal lengths, the median line would have to be adjusted or shifted in such a way as to effect a delimitation closer to the coast of Jan Mayen. It had, however, to be made clear that taking account of the disparity of coastal lengths did not mean a direct and mathematical application of the relationship between the length of the coastal front of eastern Greenland and that of Jan Mayen. Nor did the circumstances require the Court to uphold the claim of Denmark that the boundary line should be drawn 200 miles from the baselines on the coast of eastern Greenland, i.e., a delimitation giving Denmark maximum extension of its claim to continental shelf and fishery zone. The result of such a delimitation would have been to leave to Norway merely the residual part of the "area relevant to the delimitation dispute" as defined by Denmark. The delimitation according to the 200-mile line calculated from the coasts of eastern Greenland might from a mathematical perspective seem more equitable than that effected on the basis of the median line, regard being had to the disparity in coastal lengths; but this did not mean that the result was equitable in itself, which was the objective of every maritime delimitation based on law. The Court observed in this respect that the coast of Jan Mayen, no less than that of eastern Greenland, generated potential title to the maritime areas recognized by customary law, i.e., in principle up to a limit of 200 miles from its baselines. To have attributed to Norway merely the residual area left after giving full effect to the eastern coast of Greenland, would have run wholly counter to the rights of Jan Mayen and also to the demands of equity.

At this stage of its analysis, the Court thus considered that neither the median line nor the 200-mile line calculated from the coasts of eastern Greenland in the relevant area ought to be adopted as the boundary of the continental shelf or of the fishery zone. It followed that the boundary line had to be situated between those two lines described above, and located in such a way that the solution obtained was justified by the special circumstances contemplated by the 1958 Convention on the Continental Shelf, and equitable on the basis of the principles and rules of customary international law. The Court accordingly proceeded to consider what other circumstances might also affect the position of the boundary line.

Access to resources (paras. 72-78)

The Court then turned to the question whether access to the resources of the area of overlapping claims constituted a factor relevant to the delimitation. The Parties were essentially in conflict over access to fishery resources; the principal exploited fishery resource being capelin. The Court had therefore to consider whether any shifting or adjustment of the median line, as fishery zone boundary, would be required to ensure equitable access to the capelin fishery resources.

It appeared to the Court that the seasonal migration of the capelin presented a pattern which, north of the 200-mile line claimed by Iceland, might be said to centre on the southern part of the area of overlapping claims, approximately between that line and the parallel of 72° North latitude, and that the delimitation of the fishery zone ought to reflect this fact. It was clear that no delimitation in the area could guarantee to each Party the presence in every year of fishable quantities of capelin in the zone allotted to it by the line. It appeared however to the Court that the median line was too far to the west for Denmark to be assured of an equitable access to the capelin stock, since it would attribute to Norway the whole of the area of overlapping claims. For that reason also the median line thus required to be adjusted or shifted eastwards. The Court was further satisfied that while ice constituted a considerable seasonal restriction of access to the waters, it did not materially affect access to migratory fishery resources in the southern part of the area of overlapping claims.

Population and economy (paras. 79-80)

Denmark considered as also relevant to the delimitation the major differences between Greenland and Jan Mayen as regards population and socio-economic factors.

The Court observed that the attribution of maritime areas to the territory of a State, which, by its nature, was destined to be permanent, was a legal process based solely on the possession by the territory concerned of a coastline. The Court recalled in the context of the instant case the observations it had had occasion to make, concerning continental shelf delimitation, in the *Continental Shelf (Libyan Arab Jamahiriya/Malta)* case, namely that a delimitation ought not to be influenced by the relative economic position of the two States in question, in such a way that the area of continental shelf regarded as appertaining to the less rich of the two States would be somewhat increased in order to compensate for its inferiority in economic resources.

The Court therefore concluded that, in the delimitation to be effected, there was no reason to consider either the limited nature of the population of Jan Mayen or socio-economic factors as circumstances to be taken into account.

Security (para. 81)

Norway had argued, in relation to the Danish claim to a 200-mile zone off Greenland, that "the drawing of a boundary closer to one State than to another would imply an inequitable displacement of the possibility of the former State to protect interests which require protection".

In the *Libya/Malta* case, the Court had been satisfied that

> "the delimitation which will result from the application of the present Judgment is . . . not so near to the coast of either Party as to make questions of security a particular consideration in the present case" (*I.C.J. Reports 1985*, p. 42, para. 51).

The Court was similarly satisfied in the instant case as regards the delimitation to be described below.

Conduct of the Parties (paras. 82-86)

Denmark had contended that the conduct of the Parties was a highly relevant factor in the choice of the appropriate method of delimitation where such conduct had indicated some particular method as being likely to produce an equitable result. In that respect, Denmark relied on the maritime delimitation between Norway and Iceland, and on a boundary line established by Norway between the economic zone of mainland Norway and the fishery protection zone of the Svalbard Archipelago (Bear Island – Bjørnøya).

So far as Bear Island was concerned, that territory was situated in a region unrelated to the area of overlapping claims to be delimited. In that respect, the Court observed that there could be no legal obligation for a party to a dispute to transpose, for the settlement of that dispute, a particular solution previously adopted by it in a different context. As for the delimitation between Iceland and Norway, international law did not prescribe, with a view to reaching an equitable solution, the adoption of a single method for the delimitation of the maritime spaces on all sides of an island, or for the whole of the coastal front of a particular State, rather than, if desired, varying systems of delimitation for the various parts of the coast. The conduct of the parties would in many cases therefore have no influence on such a delimitation. For those reasons, the Court concluded that the conduct of the Parties did not constitute an element such as to influence the operation of delimitation in the instant case.

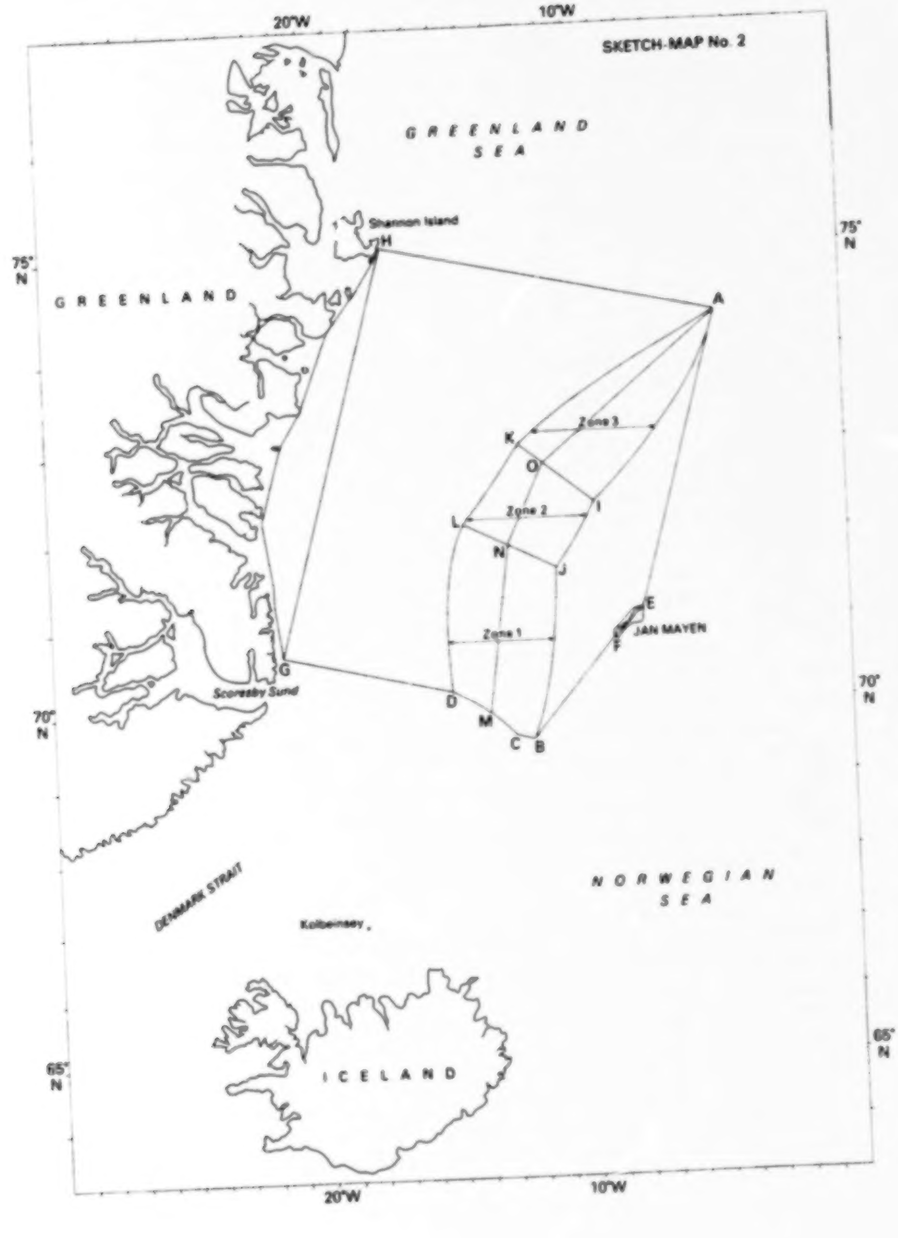
The definition of the delimitation line (paras. 87-93)

Having thus completed its examination of the geophysical and other circumstances brought to its attention as appropriate to be taken into account for the purposes of the delimitation of the continental shelf and the fishery zones, the Court came to the conclusion that the median line, adopted provisionally for both as a first stage in the delimitation, should be adjusted or shifted to become a line such as to attribute a larger area of maritime space to Denmark than the median line would have done. The line drawn by Denmark 200 nautical miles from the baselines of eastern Greenland would however have been excessive as an adjustment, and would have been inequitable in its effects. The delimitation line had therefore to be drawn within the area of overlapping claims, between the lines proposed by each Party. The Court accordingly proceeded to examine the question of the precise position of that line.

To have given only a broad indication of the manner in which the definition of the delimitation line ought to be fixed, and to have left the matter for the further agreement of the Parties, as urged by Norway, would in the Court's view not have been a complete discharge of its duty to determine the dispute. The Court was satisfied that it ought to define the delimitation line in such a way that any questions which might have still remained would have been matters strictly relating to hydrographic technicalities which the Parties, with the help of their experts, could certainly resolve. The area of overlapping claims in this case was defined by the median line and the 200-mile line from Greenland, and those lines were both geometrical constructs; there might be differences of opinion over basepoints, but given defined basepoints, the two lines followed automatically. The median line provisionally drawn as a first stage in the delimitation process had accordingly been defined by reference to the basepoints indicated by the Parties on the coasts of Greenland and Jan Mayen. Similarly the Court might have defined the delimitation line to be indicated, by reference to that median line and to the 200-mile line calculated by Denmark from the basepoints on the coast of Greenland. Accordingly the Court would proceed to establish such a delimitation, using for that purpose the baselines and co-ordinates which the Parties themselves had been content to employ in their pleadings and oral argument.

The delimitation line was to lie between the median line and the 200-mile line from the baselines of eastern Greenland. It was to run from point A in the north, the point of intersection of those two lines, to a point on the 200-mile line drawn from the baselines claimed by Iceland, between points D (the intersection of the median line with the 200-mile line claimed by Iceland) and B (the intersection of Greenland's 200-mile line and the 200-mile line claimed by Iceland) on sketch-map No. 2 (annexed). For the purposes of definition of the line, and with a view to making proper provision for equitable access to fishery resources, the area of overlapping claims would be divided into three zones, as follows. Greenland's 200-mile line (between points A and B on sketch-map No. 2) showed two marked changes of direction, indicated on the sketch-map as points I and J; similarly the median line showed two corresponding changes of direction, marked as points K and L. Straight lines drawn between point I and point K, and between point J and point L, thus divided the area of overlapping claims into three zones, to be referred to, successively from south to north, as zone 1, zone 2 and zone 3. (Para. 91 of the Judgment.)

The southernmost zone, zone 1, corresponded essentially to the principal fishing area. In the view of the Court, the two Parties ought to enjoy equitable access to the fishing resources of this zone. For that purpose a point, to be designated point M, was identified on the 200-mile line claimed by Iceland between points B and D, and equidistant from those points, and a line was drawn from point M so as to intersect the line between point J and L, at a point designated point N, so as to divide zone 1 into two parts of equal area. The dividing line was shown on sketch-map No. 2 as the line between points N and M. So far as zones 2 and 3 were concerned, it was a question of drawing the appropriate conclusions, in the application of equitable principles, from the circumstance of the marked disparity in coastal lengths, discussed in paragraphs 61 to 71 above. The Court considered that an equal division of the whole area of overlapping claims would have given too great a weight to that circumstance. Taking into account the equal division of zone 1, it considered that the requirements of equity would be met by the following division of the remainder of the area of overlapping claims: a point (O on sketch-map No. 2) was to be determined on the line between I and K in such a way that the distance from I to O was twice the distance from


20°W
10°W
SKETCH-MAP No. 2
GREENLAND SEA
Shannon Island
H
75° N
75° N
GREENLAND
A
Zone 3
K
O
I
Zone 2
L
N
J
E
JAN MAYEN
F
Zone 1
G
Scoresby Sund
70° N
70° N
D
M
C
B
NORWEGIAN SEA
DENMARK STRAIT
Kolbeinsey
65° N
65° N
ICELAND
20°W
10°W

O to K; the delimitation of zones 2 and 3 was then effected by the straight line from point N to this point O, and the straight line from point O to point A. (Para. 92 of the Judgment.)

The Court set out the co-ordinates of the various points, for the information of the Parties.

Operative paragraph (para. 94)

> "THE COURT,
>
> By fourteen votes to one,
>
> *Decides* that, within the limits defined
>
> (1) to the north by the intersection of the line of equidistance between the coasts of Eastern Greenland and the western coasts of Jan Mayen with the 200-mile limit calculated as from the said coasts of Greenland, indicated on sketch-map No. 2 as point A, and
>
> (2) to the south, by the 200-mile limit around Iceland, as claimed by Iceland, between the points of intersection of that limit with the two said lines, indicated on sketch-map No. 2 as points B and D,
>
> the delimitation line that divides the continental shelf and fishery zones of the Kingdom of Denmark and the Kingdom of Norway is to be drawn as set out in paragraphs 91 and 92 of the present Judgment.
>
> IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Ago, Schwebel, Bedjaoui, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley, Weeramantry, Ranjeva, Ajibola;
>
> AGAINST: Judge *ad hoc* Fischer."

*

Vice-President Oda, Judges Evensen, Aguilar Mawdsley and Ranjeva appended declarations (*I.C.J. Reports 1993*, pp. 83, 84-85, 86 and 87-88). Vice-President Oda, Judges Schwebel, Shahabuddeen, Weeramantry and Ajibola appended separate opinions (*ibid.*, pp. 89-117, 118-129, 130-210, 211-279 and 280-303), and Judge *ad hoc* Fischer appended a dissenting opinion (*ibid.*, pp. 303-314) to the Judgment.

2. *Aerial Incident of 3 July 1988*
(Islamic Republic of Iran v. *United States of America)*

On 17 May 1989, the Islamic Republic of Iran filed in the Registry of the Court an Application instituting proceedings against the United States of America, citing as bases for the Court's jurisdiction provisions of the 1944 Chicago Convention on International Civil Aviation and the 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

In its Application, the Islamic Republic of Iran referred to:

> "The destruction of an Iranian aircraft, Iran Air Airbus A-300B,

> flight 655, and the killing of its 290 passengers and crew by two surface-to-air missiles launched from the USS *Vincennes*, a guided-missile cruiser on duty with the United States Persian Gulf/Middle East Force in the Iranian airspace over the Islamic Republic's territorial waters in the Persian Gulf on 3 July 1988."

It contended that,

> "by its destruction of Iran Air flight 655 and taking 290 lives, its refusal to compensate the Islamic Republic for damages arising from the loss of the aircraft and individuals on board and its continuous interference with the Persian Gulf aviation",

the Government of the United States had violated certain provisions of the Chicago Convention on International Civil Aviation (7 December 1944), as amended, and of the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (23 September 1971), and that the Council of the International Civil Aviation Organization (ICAO) had erred in its decision of 17 March 1989 concerning the incident.

In its Application the Government of the Islamic Republic of Iran requested the Court to adjudge and declare:

> "*(a)* that the ICAO Council decision is erroneous in that the Government of the United States has violated the Chicago Convention, including the Preamble, Articles 1, 2, 3 *bis* and 44 *(a)* and *(h)* and Annex 15 of the Chicago Convention as well as Recommendation 2.6/1 of the Third Middle East Regional Air Navigation Meeting of ICAO;
>
> *(b)* that the Government of the United States has violated Articles 1, 3 and 10 (1) of the Montreal Convention; and
>
> *(c)* that the Government of the United States is responsible to pay compensation to the Islamic Republic, in the amount to be determined by the Court, as measured by the injuries suffered by the Islamic Republic and the bereaved families as a result of these violations, including additional financial losses which Iran Air and the bereaved families have suffered for the disruption of their activities."

On 13 December 1989, the Court, having taken into account the views expressed by each of the Parties, fixed 12 June 1990 as the time-limit for the filing of the Memorial of the Islamic Republic of Iran and 10 December 1990 for the filing of the Counter-Memorial of the United States of America (*I.C.J. Reports 1989*, p. 132). Judge Oda appended a declaration to the Order of the Court (*ibid.*, p. 135); Judges Schwebel and Shahabuddeen appended separate opinions (*ibid.*, pp. 136-144 and 145-160).

By an Order of 12 June 1990 (*I.C.J. Reports 1990*, p. 86), made in response to a request by the Islamic Republic of Iran and after the views of the United States of America had been ascertained, the President of the Court extended to 24 July 1990 the time-limit for the filing of the Memorial of the Islamic Republic of Iran and to 4 March 1991 the time-limit for the Counter-Memorial of the United States of America. The Memorial was filed within the prescribed time-limit.

On 4 March 1991, within the time-limit fixed for the filing of its Counter-Memorial, the United States of America filed certain preliminary objections to the jurisdiction of the Court. By virtue of the provisions of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended and a time-limit had to be fixed for the presentation by the other Party of a written statement of its observations and submissions on the preliminary objections. By an Order of 9 April 1991 (*I.C.J. Reports 1991*, p. 6), the Court, having ascertained the views of the Parties, fixed 9 December 1991 as the time-limit within which the Islamic Republic of Iran may present such observations and submissions.

The Islamic Republic of Iran chose Mr. Mohsen Aghahosseini to sit as judge *ad hoc*.

By Orders of 18 December 1991 (*I.C.J. Reports 1991*, p. 187) and 5 June 1992 (*I.C.J. Reports 1992*, p. 225), made in response to successive requests by Iran and after the views of the United States had been ascertained, the President of the Court extended the above-mentioned time-limit for the written observations and submissions of Iran on the preliminary objections to 9 June and 9 September 1992 respectively. Those observations and submissions were filed within the prescribed time-limit and were communicated to the Secretary-General of the International Civil Aviation Organization (ICAO), together with the written pleadings previously filed, pursuant to Article 34, paragraph 3, of the Statute of the Court and Article 69, paragraph 3, of the Rules of Court. The President of the Court, acting under the same provisions, fixed 9 December 1992 as the time-limit for the eventual submissions of written observations by the Council of ICAO. The ICAO's observations were duly filed within that time-limit.

3. *Certain Phosphate Lands in Nauru (Nauru* v. *Australia)*

On 19 May 1989 the Republic of Nauru filed in the Registry of the Court an Application instituting proceedings against the Commonwealth of Australia in respect of a dispute concerning the rehabilitation of certain phosphate lands mined under Australian administration before Nauruan independence. Nauru cited as bases for the Court's jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

In its Application, Nauru claimed that Australia had breached the trusteeship obligations it accepted under Article 76 of the Charter of the United Nations and under Articles 3 and 5 of the Trusteeship Agreement for Nauru of 1 November 1947. Nauru further claimed that Australia had breached certain obligations towards Nauru under general international law.

The Republic of Nauru requested the Court to adjudge and declare:

> "that Australia has incurred an international legal responsibility and is bound to make restitution or other appropriate reparation to Nauru for the damage and prejudice suffered";

and further

> "that the nature and amount of such restitution or reparation should, in the absence of agreement between the Parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings".

By an Order of 18 July 1989 (*I.C.J. Reports 1989*, p. 12), the Court, having ascertained the views of the Parties, fixed 20 April 1990 as the time-limit for the Memorial of Nauru and 21 January 1991 for the Counter-Memorial of Australia. The Memorial was filed within the prescribed time-limit.

On 16 January 1991, within the time-limit fixed for the filing of the Counter-Memorial, Australia filed certain preliminary objections whereby it asked the Court to adjudge and declare "that the Application by Nauru is inadmissible and that the Court lacks jurisdiction to hear the claims made by Nauru". In accordance with Article 79, paragraph 2, of the Rules of Court the proceedings on the merits were suspended and the Court, by an Order of 8 February 1991 (*I.C.J. Reports 1991*, p. 3), fixed 19 July 1991 as the time-limit within which Nauru might present a written statement of its observations and submissions on the objections. This written statement was filed within the prescribed time-limit.

Oral proceedings on the issues of jurisdiction and admissibility were held from 11 to 22 November 1991. During eight public sittings the Court heard statements made on behalf of Australia and Nauru. Members of the Court put questions to the Parties.

On 26 June 1992, at a public sitting, the Court delivered its Judgment on the Preliminary Objections (*I.C.J. Reports 1992*, p. 240), by which, with one exception, it rejected the objections and found that it had jurisdiction to entertain the Application and that the latter was admissible.

Judge Shahabuddeen appended a separate opinion to the Judgment (*ibid.*, pp. 270-300); President Sir Robert Jennings, Vice-President Oda and Judges Ago and Schwebel appended dissenting opinions (*ibid.*, pp. 301-302, 303-325, 326-328 and 329-343).

By an Order of 29 June 1992 (*ibid.*, p. 345), the President of the Court, having ascertained the views of the Parties, fixed 29 March 1993 as the time-limit for the filing of the Counter-Memorial of Australia. The Counter-Memorial was filed within the prescribed time-limit.

By an Order of 25 June 1993 (*I.C.J. Reports 1993*, p. 316), the Court, taking into account the views of the Parties, directed that a Reply by the Applicant and a Rejoinder by the Respondent should be filed and fixed the following time-limits: 22 December 1993 for the Reply of Nauru and 14 September 1994 for the Rejoinder of Australia.

4. *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*

On 31 August 1990 the Government of the Socialist People's Libyan Arab Jamahiriya filed in the Registry of the Court a notification of an agreement between that Government and the Government of the Republic of Chad, entitled "Framework Agreement on the Peaceful Settlement of the Territorial Dispute between the Great Socialist People's Libyan Arab Jamahiriya and the Republic of Chad", concluded in Algiers on 31 August 1989.

The "Framework Agreement" provides, in Article 1, that

> "The two Parties undertake to settle first their territorial dispute by all political means, including conciliation, within a period of approximately one year, unless the Heads of State otherwise decide"

and in Article 2, that

> "In the absence of a political settlement of their territorial dispute, the two Parties undertake:
>
> *(a)* to submit the dispute to the International Court of Justice . . .".

According to the notification, the Court would be required:

> "In further implementation of the Accord-Cadre [Framework Agreement], and taking into account the territorial dispute between the Parties, to decide upon the limits of their respective territories in accordance with the rules of international law applicable in the matter."

On 3 September 1990, the Republic of Chad filed in the Registry of the Court an Application instituting proceedings against the Socialist People's Libyan Arab Jamahiriya, based on Article 2 *(a)* of the "Framework Agreement" and subsidiarily on Article 8 of the Franco-Libyan Treaty of Friendship and Good Neighbourliness of 10 August 1955.

By that Application the Republic of Chad

> "respectfully requests the Court to determine the course of the frontier between the Republic of Chad and the Libyan Arab Jamahiriya, in accordance with the principles and rules of international law applicable in the matter as between the Parties".

Subsequently, the Agent of Chad, by a letter of 28 September 1990, informed the Court, *inter alia*, that his Government had noted that "its claim coincides with that contained in the notification addressed to the Court on 31 August 1990 by the Libyan Arab Jamahiriya", and considered that

> "those two notifications relate to one single case, referred to the Court in application of the Algiers Agreement, which constitutes the Special Agreement, the principal basis of the Court's jurisdiction to deal with the matter".

At a meeting between the President of the Court and the representatives of the Parties held on 24 October 1990 it was agreed between the Agents that the proceedings in the present case had in effect been instituted by two succesive notifications of the Special Agreement constituted by the "Framework Agreement" of 31 August 1989, that filed by the Libyan Arab Jamahiriya on 31 August 1990, and the communication from the Republic of Chad filed on 3 September 1990 read in conjunction with the letter from the Agent of Chad of 28 September 1990, and that the Court should determine the procedure in the case on that basis, pursuant to Article 46, paragraph 2, of the Rules of Court.

Having ascertained the views of the Parties, the Court decided by an Order of 26 October 1990 (*I.C.J. Reports 1990*, p. 149), that, as provided in Article 46, paragraph 2, of the Rules of Court, each Party should file a Memorial and a Counter-Memorial, within the same time-limit, and fixed 26 August 1991 as the time-limit for the Memorials. Both Memorials were filed within the prescribed time-limit.

Chad chose Mr. Georges M. Abi-Saab and the Libyan Arab Jamahiriya Mr. José Sette-Camara to sit as judges *ad hoc*. They made the solemn declaration required by the Statute and Rules of Court on 14 June 1993, at the opening of the oral proceedings in the case (see below, p. 242, under (*c*)).

On 26 August 1991 (*I.C.J. Reports 1991*, p. 44), the President of the Court, having ascertained the views of the Parties, fixed 27 March 1992 as the time-limit for the filing of the Counter-Memorials. Both Counter-Memorials were duly filed within the prescribed time-limit.

By an Order of 14 April 1992 (*I.C.J. Reports 1992*, p. 219), the Court, having ascertained the views of the Parties, decided to authorize the presentation by each Party of a Reply within the same time-limit, and fixed 14 September 1992 as the time-limit for those Replies. Both Replies were filed within the prescribed time-limit.

Oral proceedings were held from 14 June to 14 July 1993. During 19 public sittings, the Court heard statements on behalf of Libya and of Chad. A Member of the Court put a question to one of the Parties. The President of Chad, His Excellency Colonel Idriss Deby, attended the opening sitting of 14 June.

5. *East Timor* (*Portugal* v. *Australia*)

On 22 February 1991 the Government of the Portuguese Republic filed in the Registry of the Court an Application instituting proceedings against the Commonwealth of Australia in a dispute concerning "certain activities of Australia with respect to East Timor".

In order to establish the basis of the Court's jurisdiction, Portugal referred, in its Application, to the Declarations made by the two States under Article 36, paragraph 2, of the Statute of the Court.

In the Application the claim was made that Australia, by negotiating, with Indonesia, an "agreement relating to the exploration and exploitation of the continental shelf in the area of the 'Timor Gap'", signed on 11 December 1989, by the "ratification, and the initiation of the performance" of that agreement, by the "related internal legislation", by the "negotiation of the delimitation of that shelf", and by the "exclusion of any negotiation on those matters with Portugal", had caused "particularly serious legal and moral damage to the people of East Timor and to Portugal, which will become material damage also if the exploitation of hydrocarbon resources begins".

Portugal requested the Court:

> "(1) To adjudge and declare that, first, the rights of the people of East Timor to self-determination, to territorial integrity and unity (as defined in paragraphs 5 and 6 of the present Application) and to permanent sovereignty over its wealth and natural resources and, secondly, the duties, powers and rights of Portugal as the administering Power of the Territory of East Timor are opposable to Australia, which is under an obligation not to disregard them, but to respect them.
>
> (2) To adjudge and declare that Australia, inasmuch as in the first place it has negotiated, concluded and initiated performance of the agreement referred to in paragraph 18 of the statement of facts, has taken internal legislative measures for the application thereof, and is continuing to negotiate, with the State party to that agreement, the delimitation of the continental shelf in the area of the 'Timor Gap'; and inasmuch as it has furthermore excluded any negotiation with the administering Power with respect to the exploration and exploitation of the continental shelf in that same area; and, finally, inasmuch as it contemplates exploring and exploiting the subsoil of the sea in the 'Timor Gap' on the basis of a plurilateral title to which Portugal is not a party (each of these facts sufficing on its own):
>
> (*a*) has infringed and is infringing the right of the people of East Timor to self-determination, to territorial integrity and unity and its permanent sovereignty over its natural wealth and resources, and is in breach of the obligation not to disregard but to respect that right, that integrity and that sovereignty;
>
> (*b*) has infringed and is infringing the powers of Portugal as the administering Power of the Territory of East Timor, is impeding the fulfilment of its duties to the people of East Timor and to the international community, is infringing the right of Portugal to fulfil its responsibilities and is in breach of the obligation not to disregard but to respect those powers and duties and that right;
>
> (*c*) is contravening Security Council resolutions 384 and 389 and, as a consequence, is in breach of the obligation to accept and carry out Security Council resolutions laid down by Article 25 of the Charter of the United Nations and, more generally, is

in breach of the obligation incumbent on member States to co-operate in good faith with the United Nations;

(3) To adjudge and declare that, inasmuch as it has excluded and is excluding any negotiation with Portugal as the administering Power of the Territory of East Timor, with respect to the exploration and exploitation of the continental shelf in the area of the 'Timor Gap', Australia has failed and is failing in its duty to negotiate in order to harmonize the respective rights in the event of a conflict of rights or of claims over maritime areas.

(4) To adjudge and declare that, by the breaches indicated in paragraphs 2 and 3 of the present submissions, Australia has incurred international responsibility and has caused damage, for which it owes reparation to the people of East Timor and to Portugal, in such form and manner as may be indicated by the Court.

(5) To adjudge and declare that Australia is bound, in relation to the people of East Timor, to Portugal and to the international community, to cease from all breaches of the rights and international norms referred to in paragraphs 1, 2 and 3 of the present submissions and in particular, until such time as the people of East Timor shall have exercised its right to self-determination, under the conditions laid down by the United Nations:

(a) to refrain from any negotiation, signature or ratification of any agreement with a State other than the administering Power concerning the delimitation, and the exploration and exploitation, of the continental shelf, or the exercise of jurisdiction over that shelf, in the area of the 'Timor Gap';

(b) to refrain from any act relating to the exploration and exploitation of the continental shelf in the area of the 'Timor Gap' or to the exercise of jurisdiction over that shelf, on the basis of any plurilateral title to which Portugal, as the administering Power of the Territory of East Timor, is not a party."

By an Order of 3 May 1991 (*I.C.J. Reports 1991*, p. 9), the President of the Court, having ascertained the views of the Parties at a meeting with their Agents held on 2 May 1991, fixed the following time-limits: 18 November 1991 for the filing of the Portuguese Memorial and 1 June 1992 for the Australian Counter-Memorial. Both the Memorial and Counter-Memorial were filed within the prescribed time-limits.

Portugal chose Mr. António de Arruda Ferrer-Correia and Australia Sir Ninian Stephen to sit as judges *ad hoc*.

By an Order of 19 June 1992 (*I.C.J. Reports 1992*, p. 228), the Court, having ascertained the views of the Parties, fixed 1 December 1992 as the time-limit for the filing of a Reply by Portugal and 1 June 1993 for the filing of a Rejoinder by Australia. The Reply was filed within the prescribed time-limit.

Australia filed its Rejoinder following an Order of 19 May 1993

(*I.C.J. Reports 1993*, p. 32) by which the President of the Court, upon the request of Australia and after Portugal had indicated that it had no objection, had extended the time-limit for the filing of that Rejoinder to 1 July 1993.

6. Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. *Senegal)*

On 12 March 1991, the Government of the Republic of Guinea-Bissau filed in the Registry of the Court an Application instituting proceedings against the Republic of Senegal in a dispute concerning the delimitation of all the maritime territories between the two States. Guinea-Bissau cited as bases for the Court's jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

In its Application, Guinea-Bissau recalled that, by an Application dated 23 August 1989, it referred to the Court a dispute concerning the existence and validity of the Arbitral Award made on 31 July 1989 by the Arbitration Tribunal formed to determine the maritime boundary between the two States.

Guinea-Bissau claimed that the objective of the request laid before the Arbitration Tribunal was the delimitation of the maritime territories appertaining respectively to one and the other State. According to Guinea-Bissau, the decision of the Arbitration Tribunal of 31 July 1989, however, did not make it possible to draw a definitive delimitation of all the maritime areas over which the Parties had rights. Moreover, whatever the outcome of the proceedings pending before the Court, a real and definitive delimitation of all the maritime territories between the two States would still not be realized.

The Government of Guinea-Bissau asked the Court to adjudge and declare:

> "What should be, on the basis of the international law of the sea and of all the relevant elements of the case, including the future decision of the Court in the case concerning the Arbitral *'award'* of 31 July 1989, the line (to be drawn on a map) delimiting all the maritime territories appertaining respectively to Guinea-Bissau and Senegal."

In its Judgment of 12 November 1991 in the case concerning the *Arbitral Award of 31 July 1989 (Guinea-Bissau* v. *Senegal)* (*I.C.J. Reports 1991*, p. 53) the Court took note of the filing of a second Application but added:

> "67. . . . It has also taken note of the declaration made by the Agent of Senegal in the present proceedings, according to which one solution
>
> 'would be to negotiate with Senegal, which has no objection to this, a boundary for the exclusive economic zone or, should it

> prove impossible to reach an agreement, to bring the matter before the Court'.
>
> 68. Having regard to that Application and that declaration, and at the close of a long and difficult arbitral procedure and of these proceedings before the Court, the Court considers it highly desirable that the elements of the dispute that were not settled by the Arbitral Award of 31 July 1989 be resolved as soon as possible, as both Parties desire."

After the two Governments concerned had had time to study that Judgment, the President of the Court convened a meeting with the representatives of the Parties on 28 February 1992, at which however they requested that no time-limit be fixed for the initial pleadings in the case, pending the outcome of negotiations on the question of maritime delimitation; those negotiations were to continue for six months in the first instance, after which, if they had not been successful, a further meeting would be held with the President.

No indications having been received from the Parties as to the state of their negotiations, the President convened a further meeting with the Agents on 6 October 1992. The Agents stated that some progress had been made towards an agreement, and a joint request was made by the two Parties that a further period of three months, with a possible further extension of three months, be allowed for continuation of the negotiations. The President agreed to this, and expressed satisfaction at the efforts being made by the Parties to resolve their dispute by negotiation, in the spirit of the recommendation made in the Judgment of 12 November 1991.

7. *Passage through the Great Belt (Finland* v. *Denmark)*

On 17 May 1991 the Republic of Finland filed in the Registry of the Court an Application instituting proceedings against the Kingdom of Denmark in respect of a dispute concerning the question of passage of oil-rigs through the Great Belt (Storebælt – one of the three straits linking the Baltic to the Kattegat and thence to the North Sea). Finland cited as bases for the Court's jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

In its Application Finland contended that there is no foundation in international law for the unilateral exclusion by Denmark, through the projected construction of a "high-level bridge . . . 65 metres above mean sea level", of the passage between the Baltic and the North Sea by vessels such as drill ships and oil rigs or other existing or reasonably foreseeable ships with a height of 65 metres or above to and from Finnish shipyards and ports. Such exclusion allegedly violated Finland's rights in respect of free passage through the Great Belt as established by the relevant conventions and customary international law. Finland recognized that Denmark is fully entitled, as the territorial sovereign, to take measures to improve its internal and international traffic connections, but contended that Denmark's entitlement to take such measures is necessarily limited by the established rights and interests of all States, and of Finland in particular, in the maintenance of the legal régime of free passage through the Danish straits. In Finland's view, these rights had been ignored by Denmark's refusal to enter into negotiations with Finland in order to find a solution and by its insistence that the planned bridge project be completed without modification.

Accordingly, the Republic of Finland, reserving its right to modify or to add to its submissions and in particular its right to claim compensation for any damage or loss arising from the bridge project, asked the Court to adjudge and declare:

> "*(a)* that there is a right of free passage through the Great Belt which applies to all ships entering and leaving Finnish ports and shipyards;
> *(b)* that this right extends to drill ships, oil rigs and reasonably foreseeable ships;
> *(c)* that the construction of a fixed bridge over the Great Belt as currently planned by Denmark would be incompatible with the right of passage mentioned in subparagraphs *(a)* and *(b)* above;
> *(d)* that Denmark and Finland should start negotiations, in good faith, on how the right of free passage, as set out in subparagraphs *(a)* to *(c)* above, shall be guaranteed."

On 23 May 1991 Finland filed in the Registry a request for the indication of provisional measures, contending that "construction work for the East Channel bridge would prejudice the very outcome of the dispute"; that "the object of the Application relates precisely to the right of passage which the completion of the bridge project in its planned form will effectively deny"; and that "in particular, the continuation of the construction work prejudices the negotiating result which the Finnish submissions in the Application aim to attain".

Finland accordingly requested the Court to indicate the following provisional measures:

> "(1) Denmark should, pending the decision by the Court on the merits of the present case, refrain from continuing or otherwise proceeding with such construction works in connection with the planned bridge project over the East Channel of the Great Belt as would impede the passage of ships, including drill ships and oil rigs, to and from Finnish ports and shipyards; and
>
> (2) Denmark should refrain from any other action that might prejudice the outcome of the present proceedings."

Finland chose Mr. Bengt Broms and Denmark Mr. Paul Henning Fischer to sit as judges *ad hoc*.

Between 1 and 5 July 1991, the Court, at six public sittings, heard the oral observations of both Parties on the request for provisional measures.

At a public sitting held on 29 July 1991, the Court read the Order on the request for provisional measures filed by Finland, in which it found that "the circumstances, as they now present themselves to the Court, are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures" (*I.C.J. Reports 1991*, p. 12). Judge Tarassov appended a declaration (*ibid.*, pp. 22-24), and Vice-President Oda, Judge Shahabuddeen and Judge *ad hoc* Broms appended separate opinions to the Order (*ibid.*, pp. 25-27, 28-36 and 37-39).

By another Order, of the same date (*I.C.J. Reports 1991*, p. 41), the President of the Court, having ascertained the views of the Parties at a meeting with their Agents held on the same day, fixed the following time-limits: 30 December 1991 for the filing of the Memorial of Finland and 1 June 1992 for the filing of the Counter-Memorial of Denmark. Both the Memorial and the Counter-Memorial were filed within the prescribed time-limits.

In the Order on the request by Finland for the indication of provisional measures the Court had declared *inter alia* that "pending a decision of the Court on the merits, any negotiation between the Parties with a view to achieving a direct and friendly settlement is to be welcomed".

By a letter dated 3 September 1992 the Agent of Finland, referring to the passage quoted above, stated that a settlement of the dispute had been attained and accordingly notified the Court of the discontinuance of the case by Finland.

By a letter dated 4 September 1992 the Agent of Denmark, to whom a copy of the letter from the Agent of Finland had been communicated, stated that Denmark had no objection to the discontinuance.

Consequently, the President of the Court, on 10 September 1992, made an Order recording the discontinuance of the proceedings and directing the removal of the case from the Court's list (*I.C.J. Reports 1992*, p. 348).

8. Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain)*

On 8 July 1991, the Government of the State of Qatar filed in the Registry of the Court an Application instituting proceedings against the Government of the State of Bahrain

> "in respect of certain existing disputes between them relating to sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States".

Qatar claimed that its sovereignty over the Hawar islands was well founded on the basis of customary international law and applicable local practices and customs. It had therefore continuously opposed a decision announced by the British Government in 1939, during the time of the British presence in Bahrain and Qatar (which came to an end in 1971), that the islands belonged to Bahrain. This decision was, in the view of

Qatar, invalid, beyond the power of the British in relation to the two States, and not binding on Qatar.

With regard to the shoals of Dibal and Qit'at Jaradah, a further decision of the British Government in 1947 to delimit the sea-bed boundary between Bahrain and Qatar purported to recognize that Bahrain had "sovereign rights" in the areas of those shoals. In that decision the view was expressed that the shoals should not be considered to be islands having territorial waters. Qatar had claimed and continued to claim that such sovereign rights as existed over the shoals belonged to Qatar; it also considered however that these were shoals and not islands. Bahrain claimed in 1964 that Dibal and Qit'at Jaradah were islands possessing territorial waters, and belonged to Bahrain, a claim rejected by Qatar.

With regard to the delimitation of the maritime areas of the two States, in the letter informing the Rulers of Qatar and Bahrain of the 1947 decision it was stated that the British Government considered that the line divided "in accordance with equitable principles" the sea-bed between Qatar and Bahrain, and that it was a median line based generally on the configuration of the coastline of the Bahrain main island and the peninsula of Qatar. The letter further specified two exceptions. One concerned the status of the shoals; the other that of the Hawar islands.

Qatar stated that it did not oppose that part of the delimitation line which the British Government stated was based on the configuration of the coastlines of the two States and was determined in accordance with equitable principles. It had been rejecting and still rejected the claim made in 1964 by Bahrain (which had refused to accept the abovementioned delimitation by the British Government) of a new line delimiting the sea-bed boundary of the two States. Qatar based its claims with respect to delimitation on customary international law and applicable local practices and customs.

The State of Qatar therefore requested the Court:

> "I. To adjudge and declare in accordance with international law
>
> (A) that the State of Qatar has sovereignty over the Hawar islands; and
>
> (B) that the State of Qatar has sovereign rights over Dibal and Qit'at Jaradah shoals;
>
> and
>
> II. With due regard to the line dividing the sea-bed of the two States as described in the British decision of 23 December 1947, to draw in accordance with international law a single maritime boundary between the maritime areas of sea-bed, subsoil and superjacent waters appertaining respectively to the State of Qatar and the State of Bahrain."

In the Application, Qatar founded the jurisdiction of the Court upon certain agreements between the Parties stated to have been concluded in December 1987 and December 1990, the subject and scope of the commitment to jurisdiction being determined, according to Qatar, by a formula proposed by Bahrain to Qatar on 26 October 1988 and accepted by Qatar in December 1990.

By letters addressed to the Registrar of the Court on 14 July 1991 and 18 August 1991 Bahrain contested the basis of jurisdiction invoked by Qatar.

At a meeting held on 2 October 1991 to enable the President of the Court to ascertain their views, the Parties reached agreement as to the desirability of the proceedings being initially devoted to the questions of the Court's jurisdiction to entertain the dispute and the admissibility of the Application. The President accordingly made, on 11 October 1991, an Order (*I.C.J. Reports 1991*, p. 50) deciding that the written proceedings should first be addressed to those questions; in the same Order he fixed the following time-limits in accordance with a further agreement reached between the Parties at the meeting of 2 October: 10 February 1992 for the Memorial of Qatar, and 11 June 1992 for the Counter-Memorial of Bahrain. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

By an Order of 26 June 1992 (*I.C.J. Reports 1992*, p. 237), the Court, having ascertained the views of the Parties, directed that a Reply by the Applicant and a Rejoinder by the Respondent be filed on the questions of jurisdiction and admissibility. It fixed 28 September 1992 as the time-limit for the Reply of Qatar and 29 December 1992 for the Rejoinder of Bahrain. Both the Reply and the Rejoinder were filed within the prescribed time-limits.

Qatar chose Mr. José Maria Ruda and Bahrain Mr. Nicolas Valticos to sit as judges *ad hoc*.

9, 10. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*

On 3 March 1992 the Government of the Socialist People's Libyan Arab Jamahiriya filed in the Registry of the Court two separate Applications instituting proceedings against the Government of the United Kingdom of Great Britain and Northern Ireland and against the United States of America in respect of a dispute over the interpretation and application of the Montreal Convention of 23 September 1971, a dispute arising from acts resulting in the aerial incident that occurred over Lockerbie, Scotland, on 21 December 1988.

In the Applications, Libya referred to the charging and indictment of two Libyan nationals by the Lord Advocate of Scotland and by a Grand Jury of the United States, respectively, with having caused a bomb to be placed aboard Pan Am flight 103. The bomb subsequently exploded, causing the aeroplane to crash, and all persons aboard were killed.

Libya pointed out that the acts alleged constituted an offence within the meaning of Article 1 of the Montreal Convention, which it claimed to be the only appropriate convention in force between the Parties, and claimed that it had fully complied with its own obligations under that instrument, Article 5 of which required a State to establish its own jurisdiction over alleged offenders present in its territory in the event of their non-extradition; there was no extradition treaty between Libya and the respective other Parties, and Libya was obliged under Article 7 of the Convention to submit the case to its competent authorities for the purpose of prosecution.

Libya contended that the United Kingdom and the United States were in breach of the Montreal Convention through rejection of its efforts to resolve the matter within the framework of international law, including the Convention itself, in that they were placing pressure upon Libya to surrender the two Libyan nationals for trial.

According to the Applications, it had not been possible to settle by negotiation the disputes that had thus arisen, neither had the Parties been able to agree upon the organization of an arbitration to hear the matter. The Libyan Arab Jamahiriya therefore submitted the disputes to the Court on the basis of Article 14, paragraph 1, of the Montreal Convention.

Libya requested the Court to adjudge and declare as follows:

(*a*) that Libya has fully complied with all of its obligations under the Montreal Convention;

(*b*) that the United Kingdom and the United States respectively have breached, and are continuing to breach, their legal obligations to Libya under Articles 5 (2), 5 (3), 7, 8 (2) and 11 of the Montreal Convention; and

(*c*) that the United Kingdom and the United States respectively are under a legal obligation immediately to cease and desist from such breaches and from the use of any and all force or threats against Libya, including the threat of force against Libya, and from all violations of the sovereignty, territorial integrity, and the political independence of Libya.

Later the same day, Libya made two separate requests to the Court to indicate forthwith the following provisional measures:

(*a*) to enjoin the United Kingdom and the United States respectively from taking any action against Libya calculated to coerce or compel Libya to surrender the accused individuals to any jurisdiction outside of Libya; and

(*b*) to ensure that no steps are taken that would prejudice in any way the rights of Libya with respect to the legal proceedings that are the subject of Libya's Applications.

In those requests Libya also requested the President, pending the meeting of the Court, to exercise the power conferred on him by

Article 74, paragraph 4, of the Rules of Court, to call upon the Parties to act in such a way as to enable any Order the Court might make on Libya's request for provisional measures to have its appropriate effects.

By a letter of 6 March 1992, the Legal Adviser of the United States Department of State, referring to the specific request made by Libya under Article 74, paragraph 4, of the Rules of Court, in its request for the indication of provisional measures, stated *inter alia* that

> "taking into account both the absence of any concrete showing of urgency relating to the request and developments in the ongoing action by the Security Council and the Secretary-General in this matter . . . the action requested by Libya . . . is unnecessary and could be misconstrued".

Libya chose Mr. Ahmed S. El-Kosheri to sit as judge *ad hoc*.

At the opening of the hearings on the request for the indication of provisional measures, on 26 March 1992, the Vice-President of the Court, exercising the functions of the presidency in the case, referred to the request made by Libya under Article 74, paragraph 4, of the Rules of Court and stated that, after the most careful consideration of all the circumstances then known to him, he had come to the conclusion that it would not be appropriate for him to exercise the discretionary power conferred on the President by that provision. At five public sittings held on 26, 27 and 28 March 1992, both Parties in each of the two cases presented oral arguments on the request for the indication of provision measures. A Member of the Court put questions to both Agents in each of the two cases and the Judge *ad hoc* put a question to the Agent of Libya.

At a public sitting held on 14 April 1992, the Court read the two Orders on the requests for indication of provisional measures filed by Libya (*I.C.J. Reports 1992*, pp. 3 and 114), in which it found that the circumstances of the case were not such as to require the exercise of its power to indicate such measures.

Acting President Oda (*ibid.*, pp. 17-19 and 129-131) and Judge Ni (*ibid.*, pp. 20-23 and 132-135) each appended a declaration to the Orders of the Court; Judges Evensen, Tarassov, Guillaume and Aguilar Mawdsley appended a joint declaration (*ibid.*, pp. 24-25 and 136-137). Judges Lachs (*ibid.*, pp. 26-27 and 138-139) and Shahabuddeen (*ibid.*, pp. 28-32 and 140-142) appended separate opinions; and Judges Bedjaoui (*ibid.*, pp. 33-49 and 143-159), Weeramantry (*ibid.*, pp. 50-71 and 160-181), Ranjeva (*ibid.*, pp. 72-77 and 182), Ajibola (*ibid.*, pp. 78-93 and 183-198) and Judge *ad hoc* El-Kosheri (*ibid.*, pp. 94-112 and 199-217) appended dissenting opinions to the Orders.

By Orders of 19 June 1992 (*I.C.J. Reports 1992*, pp. 231 and 234), the Court, taking into account that the length of time-limits had been agreed by the Parties at a meeting held on 5 June 1992 with the Vice-President of the Court, exercising the function of the presidency in the two cases, fixed 20 December 1993 as the time-limit for the filing of the Memorial of Libya and 20 June 1995 for the filing of the Counter-Memorials of the United Kingdom and the United States of America.

11. Oil Platforms (Islamic Republic of Iran v. *United States of America)*

On 2 November 1992 the Islamic Republic of Iran filed in the Registry of the Court an Application instituting proceedings against the United States of America with respect to the destruction of Iranian oil platforms.

The Islamic Republic founded the jurisdiction of the Court for the purposes of these proceedings on Article XXI (2) of the Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran, signed at Tehran on 15 August 1955.

In its Application Iran alleged that the destruction caused by several warships of the United States Navy, on 19 October 1987 and 18 April 1988, to three offshore oil production complexes, owned and operated for commerical purposes by the National Iranian Oil Company, constituted a fundamental breach of various provisions of the Treaty of Amity and of international law. In this connection Iran referred in particular to Articles I and X (1) of the Treaty which provide respectively: "There shall be firm and enduring peace and sincere friendship between the United States of America and Iran", and "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation".

The Islamic Republic accordingly requested the Court to adjudge and declare as follows:

"*(a)* that the Court has jurisdiction under the Treaty of Amity to entertain the dispute and to rule upon the claims submitted by the Islamic Republic;

(b) that in attacking and destroying the oil platforms referred to in the Application on 19 October 1987 and 18 April 1988, the United States breached its obligations to the Islamic Republic, *inter alia*, under Article I and X (1) of the Treaty of Amity and international law;

(c) that in adopting a patently hostile and threatening attitude towards the Islamic Republic that culminated in the attack and destruction of the Iranian oil platforms, the United States breached the object and purpose of the Treaty of Amity, including Articles I and X (1), and international law;

(d) that the United States is under an obligation to make reparations to the Islamic Republic for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings. The Islamic Republic reserves the right to introduce and present to the Court in due course a precise evaluation of the reparations owed by the United States; and

(e) any other remedy the Court may deem appropriate."

By an Order of 4 December 1992 (*I.C.J. Reports 1992*, p. 763), the

President of the Court, taking into account an agreement of the Parties, fixed 31 May 1993 as the time-limit for the filing of the Memorial of Iran and 30 November 1993 for the filing of the Counter-Memorial of the United States.

By an Order of 3 June 1993 (*I.C.J. Reports 1993*, p. 35), the President of the Court, upon the request of Iran and after the United States had indicated that it had no objection, extended those time-limits to 8 June and 16 December 1993, respectively. The Memorial was filed within the prescribed time-limit.

12. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia (Serbia and Montenegro))*

On 20 March 1993, the Republic of Bosnia and Herzegovina filed in the Registry of the Court an Application instituting proceedings against Yugoslavia (Serbia and Montenegro) "for violating the Genocide Convention".

The Application referred to several provisions of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, as well as of the Charter of the United Nations, which Bosnia and Herzegovina alleged were violated by Yugoslavia (Serbia and Montenegro). It also referred in this respect to the four Geneva Conventions of 1949 and their Additional Protocol I of 1977, to the Hague Regulations on Land Warfare of 1907, and to the Universal Declaration of Human Rights.

The Application referred to Article IX of the Genocide Convention as the basis for the jurisdiction of the Court.

In the Application, Bosnia and Herzegovina requested the Court to adjudge and declare:

> "*(a)* that Yugoslavia (Serbia and Montenegro) has breached, and is continuing to breach, its legal obligations toward the People and State of Bosnia and Herzegovina under Articles I, II *(a)*, II *(b)*, II *(c)*, II *(d)*, III *(a)*, III *(b)*, III *(c)*, III *(d)*, III *(e)*, IV and V of the Genocide Convention;
>
> *(b)* that Yugoslavia (Serbia and Montenegro) has violated and is continuing to violate its legal obligations toward the People and State of Bosnia and Herzegovina under the four Geneva Conventions of 1949, their Additional Protocol I of 1977, the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and other fundamental principles of international humanitarian law;
>
> *(c)* that Yugoslavia (Serbia and Montenegro) has violated and continues to violate Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of the Universal Declaration of Human Rights with respect to the citizens of Bosnia and Herzegovina;

(d) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina, and is continuing to do so;

(e) that in its treatment of the citizens of Bosnia and Herzegovina, Yugoslavia (Serbia and Montenegro) has violated, and is continuing to violate, its solemn obligations under Articles 1 (3), 55 and 56 of the United Nations Charter;

(f) that Yugoslavia (Serbia and Montenegro) has used and is continuing to use force and the threat of force against Bosnia and Herzegovina in violation of Articles 2 (1), 2 (2), 2 (3), 2 (4), and 33 (1), of the United Nations Charter;

(g) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has used and is using force and the threat of force against Bosnia and Herzegovina;

(h) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has violated and is violating the sovereignty of Bosnia and Herzegovina by:

- armed attacks against Bosnia and Herzegovina by air and land;
- aerial trespass into Bosnian airspace;
- efforts by direct and indirect means to coerce and intimidate the Government of Bosnia and Herzegovina;

(i) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has intervened and is intervening in the internal affairs of Bosnia and Herzegovina;

(j) that Yugoslavia (Serbia and Montenegro), in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Bosnia and Herzegovina by means of its agents and surrogates, has violated and is violating its express charter and treaty obligations to Bosnia and Herzegovina and, in particular, its charter and treaty obligations under Article 2 (4) of the United Nations Charter, as well as its obligations under general and customary international law;

(k) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right to defend Itself and its People under United Nations Charter Article 51 and customary international law, including by means of immediately obtaining military weapons, equipment, supplies and troops from other States;

(l) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right under United Nations Charter Article 51 and customary international law to request the immediate assistance of any State to come to its defence, including by military means (weapons, equipment, supplies, troops, etc.);

(m) that Security Council resolution 713 (1991), imposing a weapons embargo upon the former Yugoslavia, must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(n) that all subsequent Security Council resolutions that refer to or reaffirm resolution 713 (1991) must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(o) that Security Council resolution 713 (1991) and all subsequent Security Council resolutions referring thereto or reaffirming thereof must not be construed to impose an arms embargo upon Bosnia and Herzegovina, as required by Articles 24 (1) and 51 of the United Nations Charter and in accordance with the customary doctrine of *ultra vires*;

(p) that pursuant to the right of collective self-defence recognized by United Nations Charter Article 51, all other State parties to the Charter have the right to come to the immediate defence of Bosnia and Herzegovina – at its request – including by means of immediately providing It with weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.);

(q) that Yugoslavia (Serbia and Montenegro) and its agents and surrogates are under an obligation to cease and desist immediately from its breaches of the foregoing legal obligations, and is under a particular duty to cease and desist immediately:

- from its systematic practice of so-called 'ethnic cleansing' of the citizens and sovereign territory of Bosnia and Herzegovina;
- from the murder, summary execution, torture, rape, kidnapping, mayhem, wounding, physical and mental abuse, and detention of the citizens of Bosnia and Herzegovina;
- from the wanton devastation of villages, towns, districts, cities, and religious institutions in Bosnia and Herzegovina;
- from the bombardment of civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;
- from continuing the siege of any civilian population centres

in Bosnia and Herzegovina, and especially its capital, Sarajevo;
- from the starvation of the civilian population in Bosnia and Herzegovina;
- from the interruption of, interference with, or harassment of humanitarian relief supplies to the citizens of Bosnia and Herzegovina by the international community;
- from all use of force – whether direct or indirect, overt or covert – against Bosnia and Herzegovina, and from all threats of force against Bosnia and Herzegovina;
- from all violations of the sovereignty, territorial integrity or political independence of Bosnia and Herzegovina, including all intervention, direct or indirect, in the internal affairs of Bosnia and Herzegovina;
- from all support of any kind – including the provision of training, arms, ammunition, finances, supplies, assistance, direction or any other form of support – to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary actions in or against Bosnia and Herzegovina.

(r) that Yugoslavia (Serbia and Montenegro) has an obligation to pay Bosnia and Herzegovina, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property as well as to the Bosnian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. Bosnia and Herzegovina reserves the right to introduce to the Court a precise evaluation of the damages caused by Yugoslavia (Serbia and Montenegro)."

On the same day, the Government of Bosnia and Herzegovina, stating that:

> "The overriding objective of this Request is to prevent further loss of human life in Bosnia and Herzegovina",

and that:

> "The very lives, well-being, health, safety, physical, mental and bodily integrity, homes, property and personal possessions of hundreds of thousands of people in Bosnia and Herzegovina are right now at stake, hanging in the balance, awaiting the order of this Court",

filed a request for the indication of provisional measures under Article 41 of the Statute of the Court.

The provisional measures requested were as follows:

> "1. That Yugoslavia (Serbia and Montenegro), together with its agents and surrogates in Bosnia and elsewhere, must immediately cease and desist from all acts of genocide and genocidal acts against

the People and State of Bosnia and Herzegovina, including but not limited to murder; summary executions; torture; rape; mayhem; so-called 'ethnic cleansing'; the wanton devastation of villages, towns, districts and cities; the siege of villages, towns, districts and cities; the starvation of the civilian population; the interruption of, interference with, or harassment of humanitarian relief supplies to the civilian population by the international community; the bombardment of civilian population centres; and the detention of civilians in concentration camps or otherwise.

2. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support – including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support – to any nation, group, organization, movement, militia or individual engaged in or planning to engage in military or paramilitary activities in or against the People, State and Government of Bosnia and Herzegovina.

3. That Yugoslavia (Serbia and Montenegro) itself must immediately cease and desist from any and all types of military or paramilitary activities by its own officials, agents, surrogates, or forces in or against the People, State and Government of Bosnia and Herzegovina, and from any other use or threat of force in its relations with Bosnia and Herzegovina.

4. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to seek and receive support from other States in order to defend Itself and its People, including by means of immediately obtaining military weapons, equipment and supplies.

5. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to request the immediate assistance of any State to come to its defence, including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.).

6. That under the current circumstances, any State has the right to come to the immediate defence of Bosnia and Herzegovina – at its request – including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, and airpeople, etc.)."

Hearings on the request for the indication of provisional measures were held on 1 and 2 April 1993. At two public sittings the Court heard the oral observations of each of the Parties. A Member of the Court put a question to both Agents.

At a public sitting held on 8 April 1993, the President of the Court read the Order on the request for provisional measures made by Bosnia and Herzegovina (*I.C.J. Reports 1993*, p. 3), a summary of which is given below, followed by the text of the operative paragraph.

In its Order the Court recalled that on 20 March 1993 Bosnia-Herzegovina had instituted proceedings against Yugoslavia in respect of a dispute concerning alleged violations by Yugoslavia of the Convention on the Prevention and Punishment of the Crime of Genocide. In the Application Bosnia-Herzegovina, basing the jurisdiction of the Court on Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter called "the Genocide Convention"), recounted a series of events in Bosnia-Herzegovina from April 1992 up to the present day which, in its contention, amounted to acts of genocide within the definition given in the Genocide Convention and claimed that the acts complained of had been committed by former members of the Yugoslav People's Army (YPA) and by Serb military and paramilitary forces under the direction of, at the behest of, and with assistance from Yugoslavia, and that Yugoslavia was therefore fully responsible under international law for their activities.

The Court referred to the submissions of Bosnia-Herzegovina and to its request for the indication of provisional measures as cited above (pp. 180-184).

The Court also referred to the recommendation by Yugoslavia (in written observations on the request for provisional measures, submitted on 1 April 1993) that the Court order the application of the following provisional measures:

> "– to instruct the authorities controlled by A. Izetbegovic to comply strictly with the latest agreement on a cease-fire in the 'Republic of Bosnia and Herzegovina' which went into force on 28 March 1993;
>
> – to direct the authorities under the control of A. Izetbegovic to respect the Geneva Conventions for the Protection of Victims of War of 1949 and the 1977 Additional Protocols thereof, since the genocide of Serbs living in the 'Republic of Bosnia and Herzegovina' is being carried out by the commission of very serious war crimes which are in violation of the obligation not to infringe upon the essential human rights;
>
> – to instruct the authorities loyal to A. Izetbegovic to close immediately and disband all prisons and detention camps in the 'Republic of Bosnia and Herzegovina' in which the Serbs are being detained because of their ethnic origin and subjected to acts of torture, thus presenting a real danger for their life and health;
>
> – to direct the authorities controlled by A. Izetbegovic to allow, without delay, the Serb residents to leave safely Tuzla, Zenica, Sarajevo and other places in the 'Republic of Bosnia and Herzegovina', where they have been subject to harassment and physical and mental abuse, and having in mind that they may suffer the same fate as the Serbs in eastern Bosnia, which was

the site of the killing and massacres of a few thousand Serb civilians;

- to instruct the authorities loyal to A. Izetbegovic to cease immediately any further destruction of Orthodox churches and places of worship and of other Serb cultural heritage, and to release and stop further mistreatment of all Orthodox priests being in prison;
- to direct the authorities under the control of A. Izetbegovic to put an end to all acts of discrimination based on nationality or religion and the practice of 'ethnic cleansing', including the discrimination relating to the delivery of humanitarian aid, against the Serb population in the 'Republic of Bosnia and Herzegovina'."

The Court began by considering Yugoslavia's claim in its written observations that the legitimacy and mandate of the Government and the President of Bosnia and Herzegovina were disputed; the Court observed that the Agent of Bosnia-Herzegovina had stated that President Izetbegovic was recognized by the United Nations as the legitimate Head of State of the Republic of Bosnia and Herzegovina; that the Court had been seised of the case on the authority of a Head of State, treated as such in the United Nations; that the power of a Head of State to act on behalf of the State in its international relations was universally recognized; and that accordingly the Court might, for the purposes of the instant proceedings on a request for provisional measures, accept the seisin as the act of that State.

Turning to the question of jurisdiction the Court recalled that it ought not to indicate provisional measures unless the provisions invoked by the Applicant or found in the Statute appeared, prima facie, to afford a basis on which the jurisdiction of the Court might be established; and that this consideration embraced jurisdiction both *ratione personae* and *ratione materiae*.

The Court then referred to the indication by Bosnia-Herzegovina in the Application that the "continuity" of Yugoslavia with the former Socialist Federal Republic of Yugoslavia, a Member of the United Nations, had been contested by the entire international community, including the United Nations Security Council (cf. resolution 777 (1992)) and General Assembly (cf. resolution 47/1). After citing the texts of the above-mentioned resolutions of the Security Council and General Assembly, as well as the text of a letter from the Legal Counsel of the United Nations to the Permanent Representatives to the United Nations of Bosnia-Herzegovina and Croatia, which contained the "considered view of the United Nations Secretariat regarding the practical consequences of the adoption by the General Assembly of resolution 47/1", and noting that the solution adopted therein was not free from legal difficulties, the Court observed that the question whether or not Yugoslavia was a Member of the United Nations and as such a party to the Statute of the Court was one which the Court did not need to determine at the present stage of the proceedings. Article 35 of the Statute, after providing that the Court should be open to the parties to the Statute, continued:

> "2. The conditions under which the Court shall be open to other States shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court."

The Court therefore considered that proceedings might validly be instituted by a State against a State which was a party to such a special provision in a treaty in force, but was not party to the Statute, and independently of the conditions laid down by the Security Council; that a compromissory clause in a multilateral convention, such as Article IX of the Genocide Convention, relied on by Bosnia-Herzegovina in the present case, in the view of the Court, could be regarded prima facie as such a "special provision"; that accordingly if Bosnia-Herzegovina and Yugoslavia were both parties to the Genocide Convention, disputes to which Article IX applied were in any event prima facie within the jurisdiction *ratione personae* of the Court.

The Court then turned to the consideration of its jurisdiction *ratione materiae*; Article IX of the Genocide Convention, upon which Bosnia-Herzegovina in its Application claimed to found the jurisdiction of the Court, provided that

> "Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

The Court observed that the former Socialist Federal Republic of Yugoslavia had signed the Genocide Convention on 11 December 1948, and had deposited an instrument of ratification, without reservation, on 29 August 1950; and that both Parties to the present case corresponded to parts of the territory of the former Socialist Federal Republic of Yugoslavia.

The Court proceeded to consider two instruments: a Declaration whereby (the present) Yugoslavia, on 27 April 1992, proclaimed its intention to honour the international treaties of the former Yugoslavia, and a "Notice of Succession" to the Genocide Convention deposited by Bosnia-Herzegovina on 29 December 1992. Yugoslavia had contended that Bosnia-Herzegovina should be held to have acceded (not succeeded) to the Convention with effect, under Article XIII thereof, only as from the ninetieth day following the deposit of its instrument, so that the Court would possess jurisdiction, if at all, only subject to a temporal limitation.

The Court, however, considered it unnecessary to pronounce upon this contention in deciding whether to indicate provisional measures, when it was concerned not so much with the past as with the present and future. On the basis of the two instruments the Court found that Article IX of the Genocide Convention appeared to afford a basis on which the jurisdiction of the Court might be founded to the extent that the subject-matter of the dispute related to "the interpretation, application or fulfilment" of the Convention, including disputes "relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III" of the Convention.

Having further examined a document which in Bosnia-Herzegovina's submission constituted an additional basis of jurisdiction of the Court in this case, namely a letter, dated 8 June 1992, addressed to the President of the Arbitration Commission of the International Conference on the former Yugoslavia by the President of the Republic of Montenegro and the President of the Republic of Serbia, the Court found itself unable to regard that letter as constituting a prima facie basis of jurisdiction in the instant case and had therefore to proceed on the basis only that it had prima facie jurisdiction, both *ratione personae* and *ratione materiae* under Article IX of the Genocide Convention.

With regard to its jurisdiction the Court finally observed that the objection by Yugoslavia to the effect that "it would be premature and inappropriate for the Court to indicate provisional measures" while the Security Council was acting in the matter under Article 25 and Chapter VII of the Charter, was primarily addressed to those measures which went beyond matters within the scope of the Genocide Convention and which for that reason the Court could not consider. It recalled that in any event the Council had functions of a political nature assigned to it, whereas the Court exercised purely judicial functions and that both organs could therefore perform their separate but complementary functions with respect to the same events.

After summing up the rights which Bosnia-Herzegovina and Yugoslavia sought to have protected by the indication of provisional measures, the Court observed that it was confined to the consideration of such rights under the Genocide Convention as might form the subject-matter of a judgment of the Court in the exercise of its jurisdiction under Article IX of that Convention.

The Court noted that the Applicant claimed that acts of genocide had been committed, and would continue to be committed, against, in particular, the Muslim inhabitants of Bosnia-Herzegovina and that the facts stated in the Application showed that Yugoslavia was committing acts of genocide, both directly and by means of its agents and surrogates, and that there was no reason to believe that Yugoslavia would voluntarily desist from this course of conduct while the case was pending before the Court; that the Respondent observed that the situation was not one of aggression by one State against another, but a civil war and that Yugoslavia had not committed any acts of genocide, at the same time requesting the Court "to establish the responsibility of the authorities" of Bosnia-Herzegovina for acts of genocide against the Serb people in Bosnia-Herzegovina.

The Court observed that, pursuant to Article I of the Genocide Convention, all parties to that Convention had undertaken "to prevent and to punish" the crime of genocide; and that in the view of the Court, in the circumstances brought to its attention and outlined above in which there was a grave risk of acts of genocide being committed, Yugoslavia and Bosnia-Herzegovina, whether or not any such acts in the past might have been legally imputable to them, were under a clear obligation to do all in their power to prevent the commission of any such acts in the future.

The Court further observed that, in the context of the present proceedings on a request for provisional measures, it could not make definitive findings of fact or of imputability and that it was not called upon at that time to establish the existence of breaches of the Genocide Convention by either Party, but to determine whether the circumstances required the indication of provisional measures to be taken by the Parties for the protection of rights under the Genocide Convention. The Court then found that it was satisfied, taking into account the obligation imposed by Article I of the Genocide Convention, that the indication of measures was required for the protection of such rights.

From the information available to it, the Court was also satisfied that there was a grave risk of action being taken which might aggravate the existing dispute or render it more difficult of solution. The Court furthermore re-echoed the words of the General Assembly which it had already cited in 1951, to the effect that the crime of genocide "shocks the conscience of mankind, results in great losses to humanity . . . and is contrary to moral law and to the spirit and aims of the United Nations".

The Court finally observed that the decision given in the instant proceedings in no way prejudged the question of the jurisdiction of the Court to deal with the merits of the case or any questions relating to the merits themselves, and left unaffected the right of the Governments of Bosnia-Herzegovina and Yugoslavia to submit arguments in respect of such jurisdiction or such merits.

Operative paragraph (para. 52)

"THE COURT

Indicates, pending its final decision in the proceedings instituted on 20 March 1993 by the Republic of Bosnia and Herzegovina against the Federal Republic of Yugoslavia (Serbia and Montenegro), the following provisional measures:

A. (1) Unanimously,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should immediately, in pursuance of its undertaking in the Convention on the Prevention and

Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide;

(2) By 13 votes to 1,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should in particular ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide, whether directed against the Muslim population of Bosnia and Herzegovina or against any other national, ethnical, racial or religious group;

IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Ago, Schwebel, Bedjaoui, Ni, Evensen, Guillaume, Shahabuddeen, Aguilar Mawdsley, Weeramantry, Ranjeva, Ajibola;

AGAINST: *Judge* Tarassov.

B. Unanimously,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Government of the Republic of Bosnia and Herzegovina should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute over the prevention or punishment of the crime of genocide, or render it more difficult of solution."

*

Judge Tarassov appended a declaration to the Order (*I.C.J. Reports 1993*, pp. 26-27).

*

By an Order of 16 April 1993 (*I.C.J. Reports 1993*, p. 24), the President of the Court, taking into account an agreement of the Parties, fixed 15 October 1993 as the time-limit for the filing of the Memorial of Bosnia and Herzegovina and 15 April 1994 for the filing of the Counter-Memorial of Yugoslavia (Serbia and Montenegro).

Bosnia and Herzegovina chose Mr. E. Lauterpacht to sit as judge *ad hoc*.

On 27 July 1993 the Republic of Bosnia and Herzegovina filed a second request for the indication of provisional measures, stating that:

> "This extraordinary step is being taken because the Respondent has violated each and every one of the three measures of protection on behalf of Bosnia and Herzegovina that were indicated by this Court on 8 April 1993, to the grave detriment of both the People and State of Bosnia and Herzegovina. In addition to continuing its campaign of genocide against the Bosnian People – whether Muslim,

> Christian, Jew, Croat or Serb – the Respondent is now planning, preparing, conspiring to, proposing, and negotiating the partition, dismemberment, annexation and incorporation of the sovereign State of Bosnia and Herzegovina – a Member of the United Nations Organization – by means of genocide."

The provisional measures now requested are as follows:

> "1. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support – including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support – to any nation, group, organization, movement, military, militia or paramilitary force, irregular armed unit, or individual in Bosnia and Herzegovina for any reason or purpose whatsoever.
>
> 2. That Yugoslavia (Serbia and Montenegro) and all of its public officials – including and especially the President of Serbia, Mr. Slobodan Milosevic – must immediately cease and desist from any and all efforts, plans, plots, schemes, proposals or negotiations to partition, dismember, annex or incorporate the sovereign territory of Bosnia and Herzegovina.
>
> 3. That the annexation or incorporation of any sovereign territory of the Republic of Bosnia and Herzegovina by Yugoslavia (Serbia and Montenegro) by any means or for any reason shall be deemed illegal, null, and void *ab initio*.
>
> 4. That the Government of Bosnia and Herzegovina must have the means 'to prevent' the commission of acts of genocide against its own People as required by Article I of the Genocide Convention.
>
> 5. That all Contracting Parties to the Genocide Convention are obliged by Article I thereof 'to prevent' the commission of acts of genocide against the People and State of Bosnia and Herzegovina.
>
> 6. That the Government of Bosnia and Herzegovina must have the means to defend the People and State of Bosnia and Herzegovina from acts of genocide and partition and dismemberment by means of genocide.
>
> 7. That all Contracting Parties to the Genocide Convention have the obligation thereunder 'to prevent' acts of genocide, and partition and dismemberment by means of genocide, against the People and State of Bosnia and Herzegovina.
>
> 8. That in order to fulfil its obligations under the Genocide Convention under the current circumstances, the Government of Bosnia and Herzegovina must have the ability to obtain military weapons, equipment, and supplies from other Contracting Parties.
>
> 9. That in order to fulfil their obligations under the Genocide Convention under the current circumstances, all Contracting Parties thereto must have the ability to provide military weapons, equipment, supplies and armed forces (soldiers, sailors, airpeople) to the Government of Bosnia and Herzegovina at its request.

10. That United Nations Peace-keeping Forces in Bosnia and Herzegovina (i.e., UNPROFOR) must do all in their power to ensure the flow of humanitarian relief supplies to the Bosnian People through the Bosnian city of Tuzla."

13. Gabčíkovo-Nagymaros Project (Hungary/Slovakia)

On 23 October 1992 the Ambassador of the Republic of Hungary to the Netherlands presented at the Court an Application against the Czech and Slovak Federal Republic in the dispute concerning the projected diversion of the Danube. In that document the Hungarian Government, before detailing its case, invited the Czech and Slovak Federal Republic to accept the jurisdiction of the Court.

A copy of the Application was transmitted to the Government of the Czech and Slovak Federal Republic in accordance with Article 38, paragraph 5, of the Rules of Court, which reads as follows:

> "When the Applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

Following negotiations under the aegis of the European Communities between Hungary and the Czech and Slovak Federal Republic, which dissolved into two separate States on 1 January 1993, the Governments of the Republic of Hungary and of the Slovak Republic notified jointly, on 2 July 1993, to the Registrar of the Court a Special Agreement, signed at Brussels on 7 April 1993, for the submission to the Court of certain issues arising out of differences which had existed between the Republic of Hungary and the Czech and Slovak Federal Republic, regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the Construction and Operation of the Gabčíkovo-Nagymaros Barrage System and on the construction and operation of the "provisional solution". The Special Agreement records that the Slovak Republic is in this respect the sole successor State of the Czech and Slovak Federal Republic.

In Article 2 of the Special Agreement:

> "(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,
>
> *(a)* whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;
>
> *(b)* whether the Czech and Slovak Federal Republic was entitled

to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);

(*c*) what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.

(2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph 1 of this Article."

Having ascertained the views of the Parties, the Court decided by an Order of 14 July 1993 (*I.C.J. Reports 1993*, p. 319), that, as provided in Article 3, paragraph 2, of the Special Agreement and Article 46, paragraph 1, of the Rules of Court, each Party should file a Memorial and a Counter-Memorial, within the same time-limit, and fixed 2 May 1994 and 5 December 1994 as the time-limits for the filing of the Memorial and Counter-Memorial, respectively.

B. CONTENTIOUS CASE BEFORE A CHAMBER

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)

On 11 December 1986 El Salvador and Honduras jointly notified to the Court a Special Agreement concluded between them on 24 May 1986, whereby a dispute referred to as the land, island and maritime frontier dispute would be submitted for decision to a chamber which the Parties would request the Court to form under Article 26, paragraph 2, of the Statute, to consist of three Members of the Court and two judges *ad hoc* chosen by each Party.

By an Order of 8 May 1987 (*I.C.J. Reports 1987*, p. 10), the Court, after having received such a request, constituted a Chamber with the following composition: Judges Shigeru Oda, José Sette-Camara and Sir Robert Jennings; Judges *ad hoc* Nicolas Valticos and Michel Virally, chosen respectively by El Salvador and Honduras. The Chamber elected Judge José Sette-Camara to be its President.

In an Order of 13 December 1989 (*I.C.J. Reports 1989*, p. 162), adopted unanimously, the Court took note of the death of Judge *ad hoc* Virally, of the nomination on 9 February 1989 by Honduras of Mr. Santiago Torres Bernárdez to replace him and of a number of communications from the Parties, noted that it appeared that El Salvador had no objection to the choice of Mr. Torres Bernárdez, and that no objection appeared to the Court itself, and declared the Chamber to be composed as follows: Judges José Sette-Camara (President of the Chamber), Shigeru Oda and

Sir Robert Jennings; Judges *ad hoc* Nicolas Valticos and Santiago Torres Bernárdez. Judge Shahabuddeen appended a separate opinion to the Order (*I.C.J. Reports 1989*, pp. 165-172).

The written proceedings in the case have taken the following course: Each Party filed a Memorial within the time-limit of 1 June 1988 which had been fixed therefor by the Court after ascertainment of the Parties' views. By virtue of their Special Agreement, the Parties requested that the written proceedings also consist of Counter-Memorials and Replies, and the Chamber authorized the filing of such pleadings and fixed time-limits. At the successive requests of the Parties, the President of the Chamber, by Orders made on 12 January 1989 and 13 December 1989, extended those time-limits to 10 February 1989 for the Counter-Memorials and 12 January 1990 for the Replies. Each Party's Counter-Memorial and Reply were filed within the prescribed time-limits.

On 17 November 1989 the Republic of Nicaragua addressed to the Court an Application under Article 62 of the Statute for permission to intervene in the case. Nicaragua stated that it had no intention of intervening in respect of the dispute concerning the land boundary between El Salvador and Honduras, its object being:

> "*First*, generally to protect the legal rights of the Republic of Nicaragua in the Gulf of Fonseca and the adjacent maritime areas by all legal means available.
>
> *Secondly*, to intervene in the proceedings in order to inform the Court of the nature of the legal rights of Nicaragua which are in issue in the dispute. This form of intervention would have the conservative purpose of seeking to ensure that the determinations of the Chamber did not trench upon the legal rights and interests of the Republic of Nicaragua, and Nicaragua intends to subject itself to the binding effect of the decision to be given."

Nicaragua further expressed the view that its request for permission to intervene was a matter exclusively within the procedural mandate of the full Court.

By an Order of 28 February 1990 (*I.C.J. Reports 1990*, p. 3), adopted by 12 votes to 3, the Court, having considered the observations submitted by the Parties on that last point and the Applicant's comments thereon, concluded that it was sufficiently informed of the views of the States concerned, without there being any need for oral proceedings, and found that it was for the Chamber formed to deal with the case to decide whether the Application for permission to intervene should be granted. Judge Oda appended a declaration (*ibid.*, pp. 7-8), and Judges Elias, Tarassov and Shahabuddeen dissenting opinions (*ibid.*, pp. 9-10, 11-17 and 18-62) to the Order.

Between 5 and 8 June 1990 the Chamber, at five public sittings, heard oral arguments on the Nicaraguan Application for permission to intervene, presented on behalf of Nicaragua, El Salvador and Honduras.

At a public sitting held on 13 September 1990, the Chamber delivered its Judgment on the Application by Nicaragua for permission to intervene (*I.C.J. Reports 1990*, p. 92) in which it found, unanimously, that the Republic of Nicaragua had shown that it had an interest of a legal nature which might be affected by part of the Judgment of the Chamber on the merits in the present case, namely its decision on the legal régime of the waters of the Gulf of Fonseca, but had not shown such an interest which might be affected by any decision which the Chamber might be required to make concerning the delimitation of those waters, or any decision as to the legal situation of the maritime spaces outside the Gulf, or any decision as to the legal situation of the islands in the Gulf. Accordingly, the Chamber decided that the Republic of Nicaragua was permitted to intervene in the case, pursuant to Article 62 of the Statute, to the extent, in the manner and for the purposes set out in the Judgment, but not further or otherwise. Judge Oda appended a separate opinion to the Judgment (*ibid.*, pp. 138-144).

By an Order of 14 September 1990 (*ibid.*, p. 146), the President of the Chamber, having ascertained the views of the Parties and of the intervening State, fixed 14 December 1990 as the time-limit for the submission by Nicaragua of a written statement and 14 March 1991 as the time-limit within which the Parties might, if they so desired, furnish their written observations on the written statement of Nicaragua. Both the written statement by Nicaragua and the written observations thereon by the two Parties were filed within the prescribed time-limits.

At 50 public sittings, held between 15 April and 14 June 1991, the Chamber heard oral arguments by the two Parties, as well as Nicaragua's observations with respect to the subject-matter of its intervention and the two Parties' observations thereon. It also heard a witness, presented by El Salvador.

At a public sitting held on 11 September 1992, the Chamber delivered its Judgment (*I.C.J. Reports 1992*, p. 351), a summary of which is given below, followed by the text of the operative paragraphs.

I. Qualités (paras. 1-26)

The Chamber recapitulated the successive phases of the proceedings, namely: notification to the Registrar, on 11 December 1986, of the Special Agreement signed on 24 May 1986 (in force on 1 October 1986) for the submission to a chamber of the Court of a dispute between the two States; formation by the Court, on 8 May 1987, of the Chamber to deal with the case; filing by Nicaragua, on 17 November 1989, of an Application for permission to intervene in the case; Order by the Court, of 28 February 1990, on the question whether Nicaragua's Application for permission to intervene was a matter within the competence of the full Court or of the Chamber; Judgment of the Chamber of 13 September 1990 acceding to Nicaragua's application for permission to intervene (but solely in respect of the question of the status of the waters of the Gulf of Fonseca); holding of oral proceedings.

Article 2 of the Special Agreement, which defined the subject of the dispute, read, in an agreed English translation:

> "The Parties request the Chamber:
>
> 1. To delimit the boundary line in the zones or sections not described in Article 16 of the General Treaty of Peace of 30 October 1980.
>
> 2. To determine the legal situation of the islands and maritime spaces."

The Judgment then quoted the submissions of the Parties, and the "conclusions" of the intervening State, as formulated at the various stages of the proceedings.

II. General introduction (paras. 27-39)

The dispute before the Chamber had three elements: a dispute over the land boundary; a dispute over the legal situation of islands (in the Gulf of Fonseca); and a dispute over the legal situation of maritime spaces (within and outside the Gulf of Fonseca).

The two Parties (and the intervening State) came into being with the break-up of the Spanish Empire in Central America; their territories corresponded to administrative sub-divisions of that Empire. It was from the outset accepted that the new international boundaries should, in accordance with the principle generally applied in Spanish America of the *uti possidetis juris*, follow the colonial administrative boundaries.

After the independence of Central America from Spain was proclaimed on 15 September 1821, Honduras and El Salvador first made up, together with Costa Rica, Guatemala and Nicaragua, the Federal Republic of Central America, corresponding to the former Captaincy-General of Guatemala or Kingdom of Guatemala. On the disintegration of that Republic in 1839, El Salvador and Honduras, along with the other component States, became separate States.

The Chamber outlined the development of the three elements of the dispute, beginning with the genesis of the island dispute in 1854 and of the land dispute in 1861. Border incidents had led to tension and subsequently to armed conflict in 1969, but in 1972 El Salvador and Honduras had been able to agree on the major part of their land boundary, which had not yet been delimited, leaving however six sectors to be settled. A mediation process begun in 1978 had led to a General Treaty of Peace, signed and ratified in 1980 by the two Parties, which had defined the agreed sections of the boundary.

The Treaty further provided that a Joint Frontier Commission should delimit the frontier in the remaining six sectors and "determine the legal situation of the islands and the maritime spaces". It provided that if within five years total agreement had not been reached, the Parties would, within six months, negotiate and conclude a special agreement to submit any outstanding controversy to the International Court of Justice.

As the Commission did not accomplish its task within the time fixed, the Parties negotiated and concluded on 24 May 1986 the Special Agreement mentioned above.

III. The land boundary: introduction (paras. 40-67)

The Parties agreed that the fundamental principle for determining the land frontier was the *uti possidetis juris*. The Chamber noted that the essence of the agreed principle was its primary aim of securing respect for the territorial boundaries at the time of independence, and its application had resulted in colonial administrative boundaries being transformed into international frontiers.

In Spanish Central America there had been administrative boundaries of different kinds or degrees, and the jurisdictions of general administrative bodies did not necessarily coincide territorially with those of bodies possessing particular or special jurisdiction. In addition to the various civil jurisdictions there were ecclesiastical ones, which the main administrative units had to follow in principle.

The Parties had indicated to which colonial administrative divisions (provinces) they claimed to have succeeded. The problem was to identify the areas, and the boundaries, which corresponded to these provinces, which in 1821 became respectively El Salvador and Honduras. No legislative or similar material indicating this had been produced, but the Parties had submitted, *inter alia*, documents referred to collectively as "titles" (*títulos*), concerning grants of land by the Spanish Crown in the disputed areas, from which, it was claimed, the provincial boundaries could be deduced.

The Chamber then analysed the various meanings of the term "title". It concluded that, reserving, for the present, the special status El Salvador attributed to "formal title-deeds to commons", none of the titles produced recording grants of land to individuals or Indian communities could be considered as "titles" in the same sense as, for example, a Spanish Royal Decree attributing certain areas to a particular administrative unit; they were rather comparable to "colonial *effectivités*" as defined in a previous case, i.e., "the conduct of the administrative authorities as proof of the effective exercise of territorial jurisdiction in the region during the colonial period" (*Frontier Dispute, I.C.J. Reports 1986*, p. 586, para. 63). In some cases the grant of a title had not been perfected, but the record, particularly of a survey, remained a "colonial *effectivité*" which might serve as evidence of the position of a provincial boundary.

Referring to the seven sectors of the boundary agreed in the General Treaty of Peace, the Chamber assumed that the agreed boundary had been arrived at by applying principles and processes similar to those urged upon the Chamber for the non-agreed sectors. Observing the predominance of local features, particularly rivers, in the definition of the agreed sectors, the Chamber had taken some account of the suitability of certain topographical features to provide an identifiable and convenient boundary. The Chamber was here appealing not so much to any concept of "natural frontiers", but rather to a presumption underlying the boundaries on which the *uti possidetis juris* operated.

Under Article 5 of the Special Agreement, the Chamber was to take into account the rules of international law applicable between the Parties, "including, where pertinent, the provisions of" the Treaty. That presumably meant that the Chamber should also apply, where pertinent, even those Articles which in the Treaty were addressed specifically to the Joint Frontier Commission. One of these was Article 26 of the Treaty, to the effect that the Commission should take as a basis for delimitation the documents issued by the Spanish Crown or any other Spanish authority, secular or ecclesiastical, during the colonial period, and indicating the jurisdictions or limits of territories or settlements, as well as other evidence and arguments of a legal, historical, human or any other kind, brought before it by the Parties and admitted under international law.

Drawing attention to the difference between its task and that of the Commission, which had merely to propose a frontier line, the Chamber observed that Article 26 was not an applicable law clause, but rather a provision about evidence. In that light, the Chamber commented on one particular class of titles, referred to as the "formal title-deeds to commons", for which El Salvador had claimed a particular status in Spanish colonial law, that of acts of the Spanish Crown directly determining the extent of the territorial jurisdiction of an administrative division. Those titles, the so-called *títulos ejidales*, were, according to El Salvador, the best possible evidence in relation to the application of the *uti possidetis juris* principle.

The Chamber did not accept any interpretation of Article 26 as signifying that the Parties had by treaty adopted a special rule or method of determination of the *uti possidetis juris* boundaries, on the basis of divisions between Indian *poblaciones*. It was the administrative boundaries between Spanish colonial administrative units, not the boundaries between Indian settlements as such, that were transformed into international boundaries in 1821.

El Salvador contended that the commons whose formal title-deeds it relied on were not private properties but belonged to the municipal councils of the corresponding *poblaciones*. Control over those communal lands being exercised by the municipal authorities, and over and above them by those of the colonial province to which the commons had been declared to belong, El Salvador maintained that if such a grant of commons to a community in one province had extended to lands situated within another, the administrative control of the province to which the community belonged had been determinative for the application of the *uti possidetis juris*, i.e., that, on independence, the whole area of the commons had appertained to the State within which the community was situated. The Chamber, which was faced with a situation of this kind in three of six disputed sectors, had however been able to resolve the issue without having to determine that particular question of Spanish colonial law, and therefore saw no reason to attempt to do so.

In the absence of legislative instruments formally defining provincial boundaries, not only land grants to Indian communities but also grants to private individuals afforded some evidence as to the location of boundaries. There must have been a presumption that such grants would normally avoid straddling a boundary between different administrative authorities, and where the provincial boundary location was doubtful the common boundaries of two grants by different provincial authorities could well have become the provincial boundary. The Chamber therefore considered the evidence of each of these grants on its merits and in relation to other arguments, but without treating them as necessarily conclusive.

With regard to the land that had not been the subject of grants of various kinds by the Spanish Crown, referred to as crown lands, *tierras realengas*, the Parties agreed that such land was not unattributed but appertained to the one province or the other and accordingly passed, on independence, into the sovereignty of the one State or the other.

With regard to post-independence grants or titles, the so-called "republican titles", the Chamber considered that they might well provide some evidence of the position in 1821 and both Parties had offered them as such.

El Salvador, while admitting that the *uti possidetis juris* was the primary element for determining the land boundary, also put forward, in reliance on the second part of Article 26, arguments referred to as either "arguments of a human nature" or arguments based on *effectivités*. Honduras also recognized a certain confirmatory role for *effectivités* and had submitted evidence of acts of administration of its own for that purpose.

El Salvador had first advanced arguments and material relating to demographic pressures in El Salvador creating a need for territory, as compared with the relatively sparsely populated Honduras, and to the superior natural resources said to be enjoyed by Honduras. El Salvador, however, did not appear to claim that a frontier based on the principle of *uti possidetis juris* could be adjusted subsequently (except by agreement) on the ground of unequal population density. The Chamber would not lose sight of that dimension of the matter, which was however without direct legal incidence.

El Salvador also relied on the alleged occupation of disputed areas by Salvadorians, their ownership of land in those areas, the supply by it of public services there and its exercise in the areas of government powers, and claimed, *inter alia*, that the practice of effective administrative control had demonstrated an "animus" to possess the territories. Honduras rejected any argument of "effective control", suggesting that the concept only referred to administrative control prior to independence. It considered that, at least since 1884, no acts of sovereignty in the disputed areas could be relied on in view of the duty to respect the status quo in a disputed area. It had however presented considerable material to show that Honduras could also rely on arguments of a human kind.

The Chamber considered that it might have regard, in certain instances, to documentary evidence of post-independence *effectivités* affording indications of the 1821 *uti possidetis juris* boundary, provided that a relationship existed between the *effectivités* and the determination of that boundary.

El Salvador had drawn attention to difficulties in collecting evidence in certain areas owing to interference with governmental activities due to acts of violence. The Chamber, while appreciating those difficulties, could not apply a presumption that evidence which was unavailable would, if produced, have supported a particular Party's case, still less a presumption of the existence of evidence not produced. In view of those difficulties, El Salvador had requested the Chamber to consider exercising its functions under Article 66 of the Rules of Court to obtain evidence *in situ*. The Parties had however been informed that the Chamber did not consider it necessary to exercise the functions in question, nor to exercise its power, under Article 50 of the Statute, to arrange for an inquiry or expert opinion in the case, as El Salvador had also requested it to do.

*

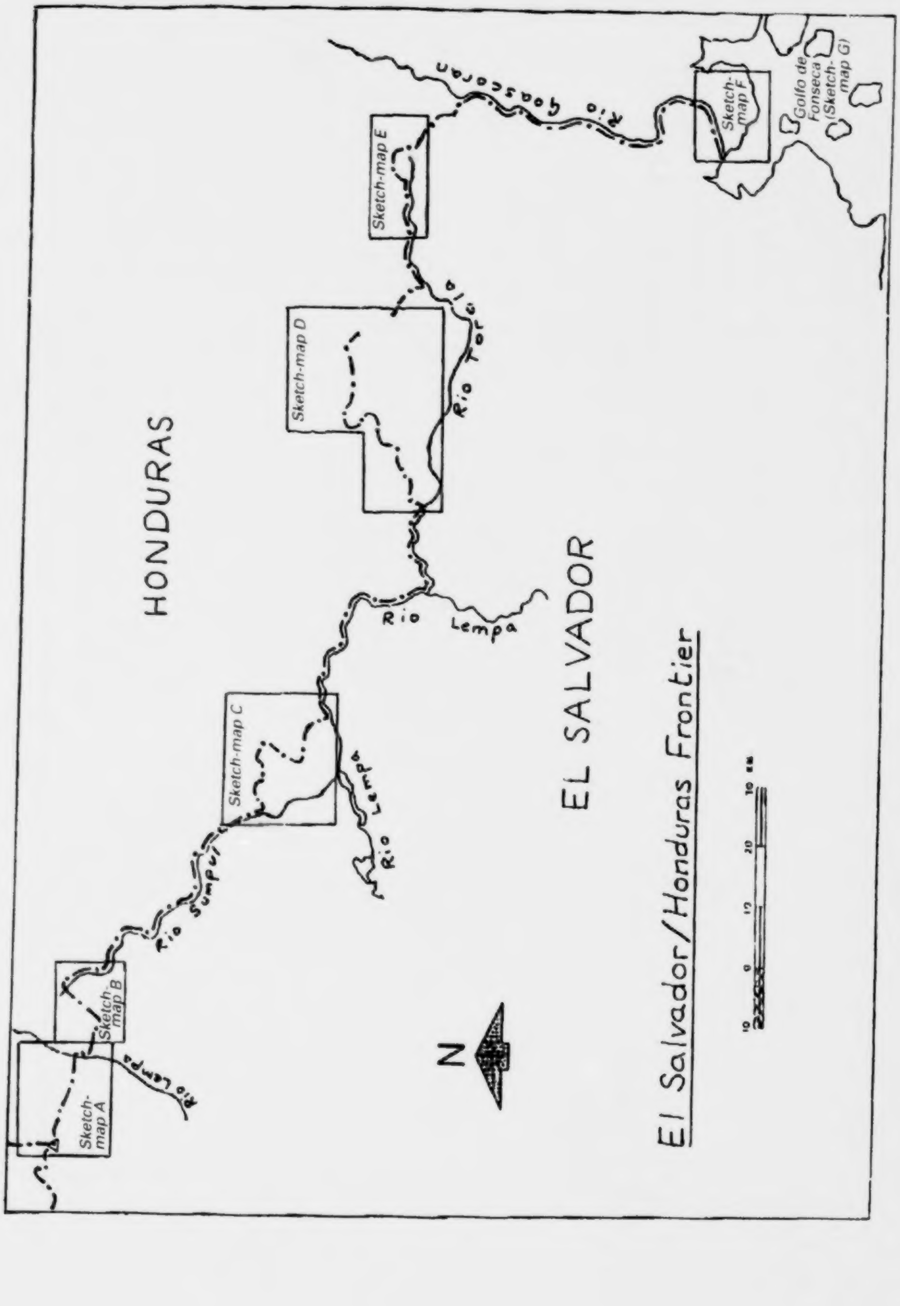
The Chamber subsequently examined, in respect of each disputed sector, the evidence of post-colonial *effectivités*. Even when claims of *effectivité* were given their due weight, it might occur in some areas that, following the delimitation of the disputed sector, nationals of one Party would find themselves in the territory of the other. The Chamber had every confidence that the necessary measures to take account of this would be taken by the Parties.

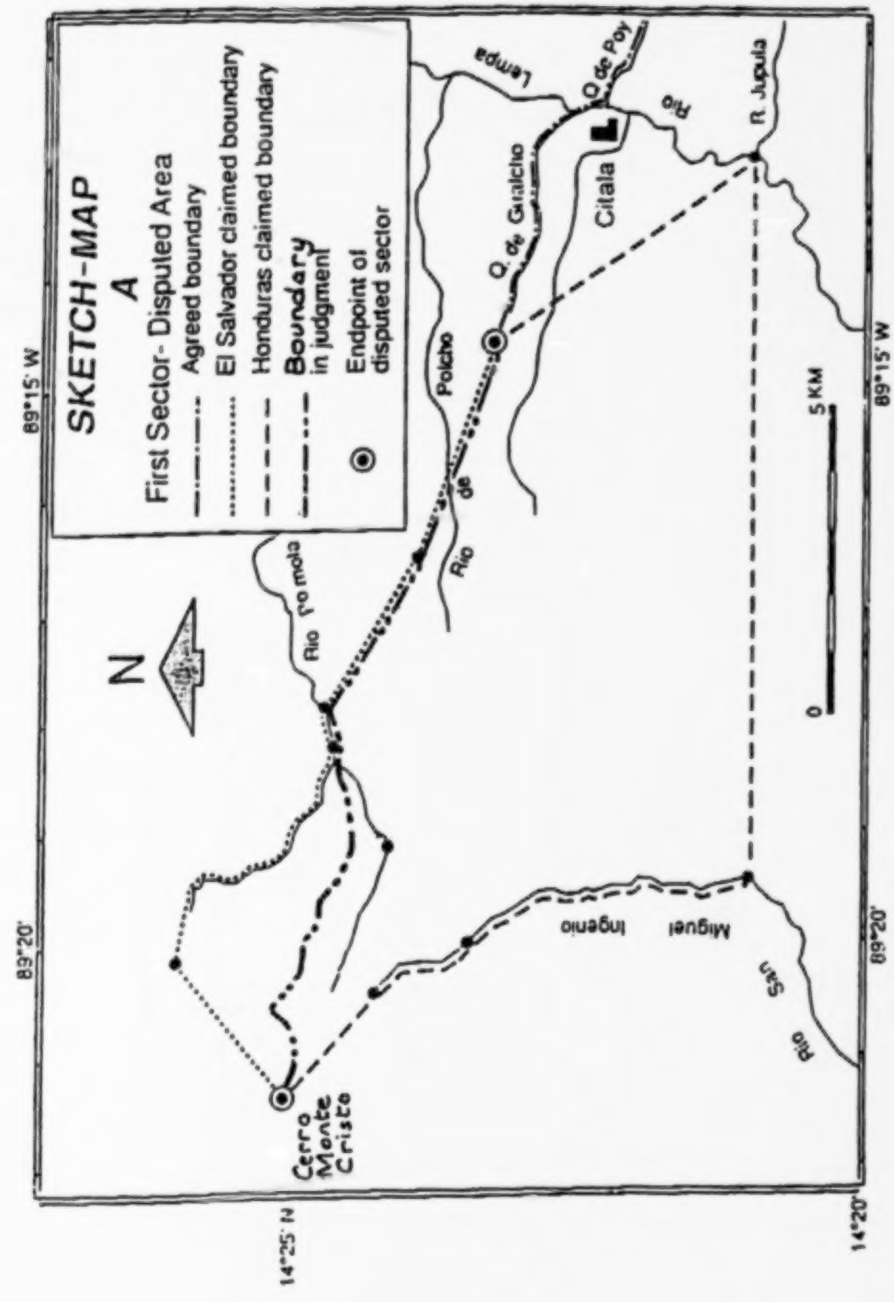
In connection with the concept of the "critical date" the Chamber observed that there seemed to be no reason why acquiescence or recognition should not operate where there was sufficient evidence to show that the Parties had in effect clearly accepted a variation or an interpretation of the *uti possidetis juris* position.

IV. First sector of the land boundary (paras. 68-103)

The first disputed sector of the land boundary ran from the agreed tripoint where the frontiers of El Salvador, Guatemala and Honduras converged (Cerro Montecristo) to the summit of the Cerro Zapotal (see sketch-map A annexed).

Both Parties recognized that most of the area between the lines they put forward corresponded to the land that was the subject of a *titulo ejidal* over the mountain of Tepangüisir, granted in 1776 to the Indian community of San Francisco de Citalá, which had been situated in, and under the jurisdiction of, the province of San Salvador. El Salvador contended that on independence the lands so granted became part of El Salvador, so that in 1821 the boundary of the two provinces had been defined by the north-eastern boundary of the Citalá *ejido*. Honduras, on the other hand, pointed out that when the 1776 title was granted, those lands included in it had been specifically stated to be in the Honduran province of Gracias a Dios, so that the lands had become on independence part of Honduras.


HONDURAS
EL SALVADOR
El Salvador/Honduras Frontier
Sketch-map A
Sketch-map B
Sketch-map C
Sketch-map D
Sketch-map E
Sketch-map F
Golfo de Fonseca (Sketch-map G)
Rio Lempa
Rio Sumpul
Rio Lempa
Rio Lempa
Rio Torola
Rio Goascoran
N


SKETCH-MAP
A
First Sector- Disputed Area
Agreed boundary
El Salvador claimed boundary
Honduras claimed boundary
Boundary in judgment
Endpoint of disputed sector
N
89°15' W
89°20'
14°25' N
14°20'
0
5 KM
Cerro Monte Cristo
Rio Pomola
Rio de Poicho
Q. de Gualcho
Q. de Poy
Lempa
Rio
Citala
R. Jupula
Rio San Miguel
Ingenio

The Chamber considered that it was not required to resolve that question. All negotiations prior to 1972 over the dispute as to the location of the frontier in that sector had been conducted on the basis, accepted by both sides, that it was the boundary between the *ejidos* of Citalá and Ocotepeque that defined the frontier. The frontier corresponding to Honduras's current interpretation of the legal effect of the 1776 Citalá title had first been put forward in negotiations held in 1972. Moreover a title granted by Honduras in 1914, and the position taken by Honduras in the course of tripartite negotiations held between El Salvador, Guatemala and Honduras in 1934-1935, had confirmed the agreement between the Parties that the boundary between Citalá and Ocotepeque defined the frontier between them. After recalling that the effect of the *uti possidetis juris* principle had not been to freeze for all time the provincial boundaries, the Chamber found that Honduras's conduct from 1881 to 1972 might be regarded as acquiescence in a boundary corresponding to that between the Tepangüisir lands of Citalá and those of Ocotepeque.

The Chamber then turned to the question of a triangular area where, according to Honduras, the 1818 title of Ocotepeque penetrated the north-eastern boundary of Citalá, and to the disagreement between the Parties as to the interpretation of the Citalá survey as regards the north-western area.

With regard to the triangular area, the Chamber did not consider that such an overlapping would have been consciously made, and that it should only be concluded that an overlap had come about by mistake if there was no doubt that the two titles were not compatible. The identification of the various relevant geographical locations could not however be achieved with sufficient certainty to demonstrate an overlap.

With respect to the disagreement on the boundary of the Citalá title, the Chamber concluded that on that point the Honduran interpretation of the relevant survey record was to be preferred.

The Chamber then turned to the part of the disputed area lying between the lands comprised in the Citalá title and the international tripoint. Honduras contended that since, according to the survey, the land in this area was crown land *(tierras realengas)*, and the survey had been effected in the province of Gracias a Dios, those lands must have been *tierras realengas* of that province and hence were now part of Honduras.

El Salvador however claimed that area on the basis of *effectivités*, and pointed to a number of villages or hamlets belonging to the municipality of Citalá within the area. The Chamber noted however the absence of evidence that the area or its inhabitants had been under the administration of that municipality. El Salvador also relied on a report by a Honduran Ambassador stating that the lands of the disputed area had belonged to inhabitants of the municipality of Citalá in El Salvador. The Chamber however did not regard that as sufficient, since to constitute an *effectivité* relevant to the delimitation of the frontier at least some recognition or evidence was required of the effective administration of the municipality of Citalá in the area, which, it noted, had not been proved.

El Salvador also contended that ownership of land by Salvadorians in the disputed area less than 40 kilometres from the line Honduras claimed as the frontier showed that the area was not part of Honduras, as under the Constitution of Honduras land within 40 kilometres of the frontier might only be acquired or possessed by native Hondurans. The Chamber rejected that contention since at the very least some recognition by Honduras of the ownership of land by Salvadorians would have had to be shown, which was not the case.

The Chamber observed that in the course of the 1934-1935 negotiations agreement had been reached on a particular frontier line in that area. The agreement by the representatives of El Salvador had only been *ad referendum*, but the Chamber noted that while the Government of El Salvador had not ratified the terms agreed upon *ad referendum*, neither had it denounced them; nor had Honduras retracted its consent.

The Chamber considered that it could adopt the 1935 line, primarily since for the most part it followed the watersheds, which provided a clear and unambiguous boundary; it reiterated its view that the suitability of topographical features to provide a readily identifiable and convenient boundary was the material aspect where no conclusion unambiguously pointing to another boundary emerged from the documentary material.

As regards material put forward by Honduras concerning the settlement of Hondurans in the disputed areas and the exercise there of government functions by Honduras, the Chamber found that material insufficient to affect the decision by way of *effectivités*.

The Chamber's conclusion regarding the first disputed sector of the land frontier was as follows[1]:

> "It begins at the tripoint with Guatemala, the 'point known as El Trifinio on the summit of the Cerro Montecristo' . . . From this point, the frontier between El Salvador and Honduras runs in a generally easterly direction, following the direct line of watersheds, in accordance with the agreement reached in 1935, and accepted *ad referendum* by the representatives of El Salvador. . . . In accordance with the 1935 agreement . . ., the frontier runs 'along the watershed between the rivers Frío or Sesecapa and Del Rosario as far as the junction of this watershed with the watershed of the basin of the *quebrada* de Pomola' . . .; 'thereafter in a north-easterly direction along the watershed of the basin of the *quebrada* de Pomola until the junction of this watershed with the watershed between the *quebrada* de Cipresales and the *quebradas* del Cedrón, Peña Dorada and Pomola proper' . . .; 'from that point, along the last-named watershed as far as the intersection of the centre-lines of the *quebradas* of

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[1] See sketch-map A annexed; for the identification letters and co-ordinates of the various defined points, see the operative clause of the Judgment, set out below, and the 1 : 50,000 maps available for inspection in the Registry.

> Cipresales and Pomola' . . .; 'thereafter, downstream along the centre-line of the *quebrada* de Pomola, until the point on that centre-line which is closest to the boundary marker of Pomola at El Talquezalar; and from that point in a straight line as far as that marker' . . . From the boundary marker of El Talquezalar, the frontier continues in a straight line in a south-easterly direction to the boundary marker of the Cerro Piedra Menuda . . ., and thence in a straight line to the boundary marker of the Cerro Zapotal . . ."

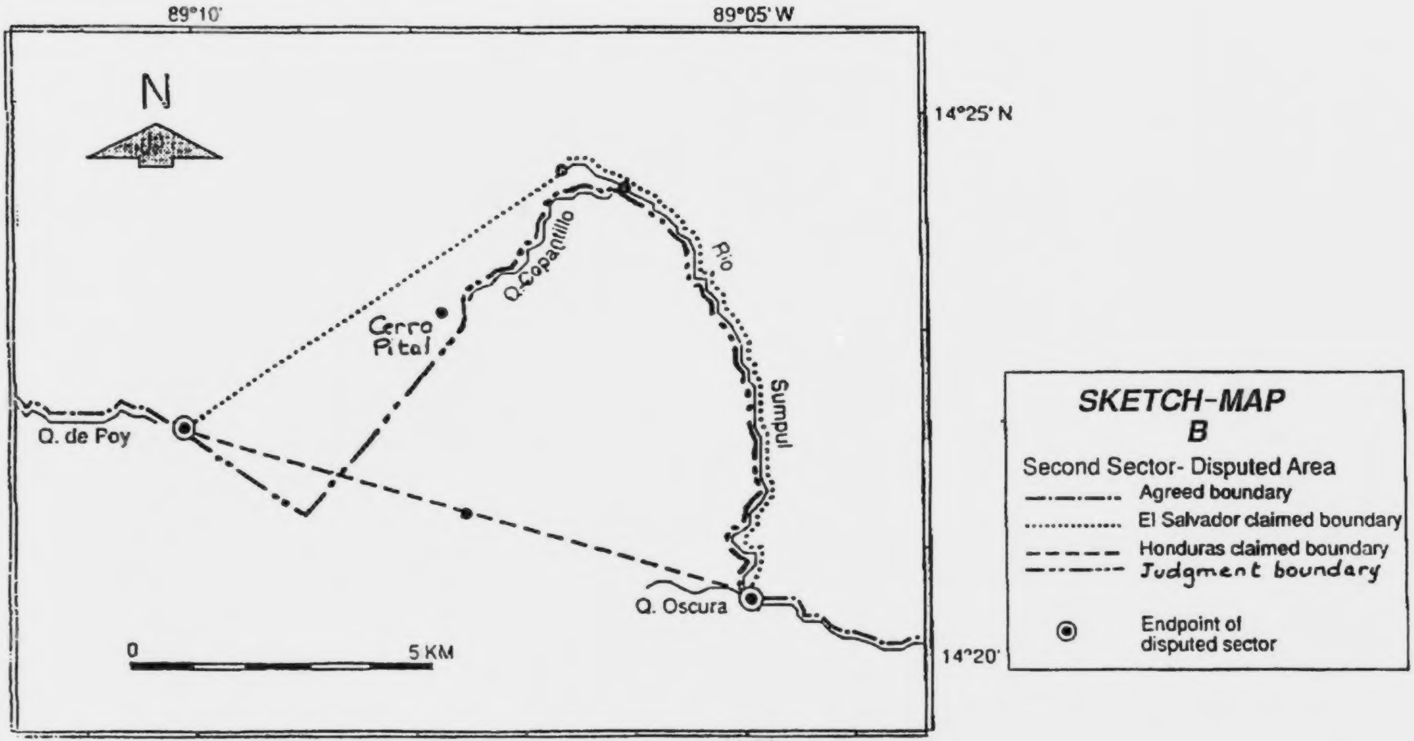
V. Second sector of the land boundary (paras. 104-127)

The second disputed sector of the land boundary lay between the Peña de Cayaguanca and the confluence of the stream of Chiquita or Oscura with the river Sumpul (see sketch-map B annexed). Honduras based its claim chiefly on the 1742 title of Jupula, issued in the context of the long-standing dispute between the Indians of Ocotepeque in the province of Gracias a Dios, and those of Citalá, in the province of San Salvador. The principal outcome had been the confirmation and agreement of the boundaries of the lands of Jupula, over which the Indians of Ocotepeque had claimed to have rights and which had been attributed to the Indians of Citalá. It was however recorded that the inhabitants of Ocotepeque, having recognized the entitlement of the inhabitants of Citalá to the land surveyed, had also requested "that there be left free for them a mountain called Cayaguanca which is above the Jupula river, which is crown land", and this request had been acceded to.

The Chamber found that the Jupula title was evidence that in 1742 the mountain of Cayaguanca had been *tierras realengas* and since the community of Ocotepeque, in the Province of Gracias a Dios, was to have cultivated it, it concluded that the mountain was *tierras realengas* of that province, for which reason the mountain had on independence to have formed part of Honduras on the basis of the *uti possidetis juris*.

The Chamber then turned to the location and extent of the mountain, which, according to Honduras, had extended over the whole of the disputed area in this sector, a claim disputed by El Salvador. In addition to arguments based on the wording of the 1742 title, El Salvador referred to the 1818 title of Ocotepeque, issued to the community of Ocotepeque to re-establish the boundary markers of its lands, contending that the mountain of Cayaguanca would necessarily have been included in that title if it had truly been awarded to the inhabitants of Ocotepeque in 1742. The Chamber did not accept that argument; it found that in 1821 the Indians of Ocotepeque, in the province of Gracias a Dios, had been entitled to the land resurveyed in 1818, and also to rights of usage over the mountain of Cayaguanca somewhere to the east, and that the area subject to these rights, being *tierras realengas* of the province of Gracias a Dios, had become Honduran upon independence.

The problem remained, however, of determining the extent of the mountain of Cayaguanca. The Chamber saw no evidence of its bound-


89°10'
89°05' W
14°25' N
N
Cerro Pital
Q. Copantillo
Rio
Sumpul
Q. de Poy
Q. Oscura
0
5 KM
14°20'
89°10'
89°05'
SKETCH-MAP B
Second Sector- Disputed Area
Agreed boundary
El Salvador claimed boundary
Honduras claimed boundary
Judgment boundary
Endpoint of disputed sector

aries, and in particular none to support the Honduran claim that the area so referred to in 1742 extended as far east as the river Sumpul, as claimed by Honduras.

The Chamber next considered what light might be thrown on the matter by the republican title invoked by El Salvador, referred to as that of Dulce Nombre de la Palma, granted in 1833 to the community of La Palma in El Salvador. The Chamber considered that title significant in that it showed how the *uti possidetis juris* position had been understood when it was granted, i.e., very shortly after independence. The Chamber examined in detail the Parties' conflicting interpretation of the title; it did not accept El Salvador's interpretation whereby it would extend as far west as the Peña de Cayaguanca, and was co-terminous with the land surveyed in 1742 for the Jupula title, and concluded that there was an intervening area not covered by either title. On that basis the Chamber determined the course of the north-western boundary of the title of Dulce Nombre de la Palma; the eastern boundary, as recognized by both Parties, was the river Sumpul.

The Chamber then examined three Honduran republican titles in the disputed area, concluding that they did not conflict with the Dulce Nombre de la Palma title so as to throw doubt on its interpretation.

The Chamber went on to examine the *effectivités* claimed by each Party to ascertain whether they supported the conclusion based on the latter title. The Chamber concluded that there was no reason to alter its findings as to the position of the boundary in that region.

The Chamber next turned to the claim by El Salvador to a triangular strip along and outside the north-west boundary of the Dulce Nombre de la Palma title, which El Salvador claimed to be totally occupied by Salvadorians and administered by Salvadorian authorities. No evidence to that effect had however been laid before the Chamber. Nor did it consider that a passage in the Reply of Honduras regarded by El Salvador as an admission of the existence of Salvadorian *effectivités* in this area could be so read. There being no other evidence to support El Salvador's claim to the strip in question, the Chamber held that it appertained to Honduras, having formed part of the "mountain of Cayaguanca" attributed to the community of Ocotepeque in 1742.

The Chamber turned finally to the part of the boundary between the Peña de Cayaguanca and the western boundary of the area covered by the Dulce Nombre de la Palma title. It found that El Salvador had not made good any claim to any area further west than the Loma de los Encinos or "Santa Rosa hillock", the most westerly point of the Dulce Nombre de la Palma title. Noting that Honduras had only asserted a claim, on the basis of the rights of Ocotepeque, to the "mountain of Cayaguanca", so far south as a straight line joining the Peña de Cayaguanca to the beginning of the next agreed sector, the Chamber considered that neither the principle *ne ultra petita*, nor any suggested acquiescence by Honduras in the boundary asserted by it, debarred the Chamber from enquiring whether the "mountain of Cayaguanca" might have extended further south, so as to be co-terminous with the eastern boundary of the Jupula title. In view of the reference in the latter to Cayaguanca as lying east of the most easterly landmark of Jupula, the Chamber considered that the area between the Jupula and the la Palma lands belonged to Honduras, and that in the absence of any other criteria for determining the southward extent of that area, the boundary between the Peña de Cayaguanca and the Loma de los Encinos should be a straight line.

The Chamber's conclusion regarding the course of the frontier in the second disputed sector was as follows[1]:

> "From . . . the Peña de Cayaguanca, the frontier runs in a straight line somewhat south of east to the Loma de Los Encinos . . ., and from there in a straight line on a bearing of N 48° E, to the hill shown on the map produced by El Salvador as El Burro (and on the Honduran maps and the United States Defense Mapping Agency maps as Piedra Rajada) . . . The frontier then takes the shortest course to the head of the *quebrada* del Copantillo, and follows the *quebrada* del Copantillo downstream to its confluence with the river Sumpul . . ., and follows the river Sumpul in turn downstream until its confluence with the *quebrada* Chiquita or Oscura . . ."

VI. Third sector of the land boundary (paras. 128-185)

The third sector of the land boundary in dispute lay between the boundary marker of the Pacacio, on the river of that name, and the boundary marker Poza del Cajón, on the river known as El Amatillo or Gualcuquín (see sketch-map C annexed).

In terms of the grounds asserted for the claims of the Parties the Chamber divided the disputed area into three parts.

In the first part, the north-western area, Honduras invoked the *uti possidetis juris* of 1821 on the basis of land titles granted between 1719 and 1779. El Salvador on the contrary claimed the major part of the area on the basis of post-independence *effectivités* or arguments of a human nature. It did however claim a portion of the area as part of the lands of the 1724 title of Arcatao.

In the second part, the essential question was the validity, extent and relationship to each other of the Arcatao title relied on by El Salvador and 18th century titles invoked by Honduras.

In the third part, the south-east section, there was a similar conflict between the Arcatao title and a lost title, that of Nombre de Jesús in the province of San Salvador, on the one hand, and the Honduran titles of San Juan de Arcatao, supplemented by the Honduran republican titles of La Virtud and San Sebastián del Palo Verde. El Salvador claimed a

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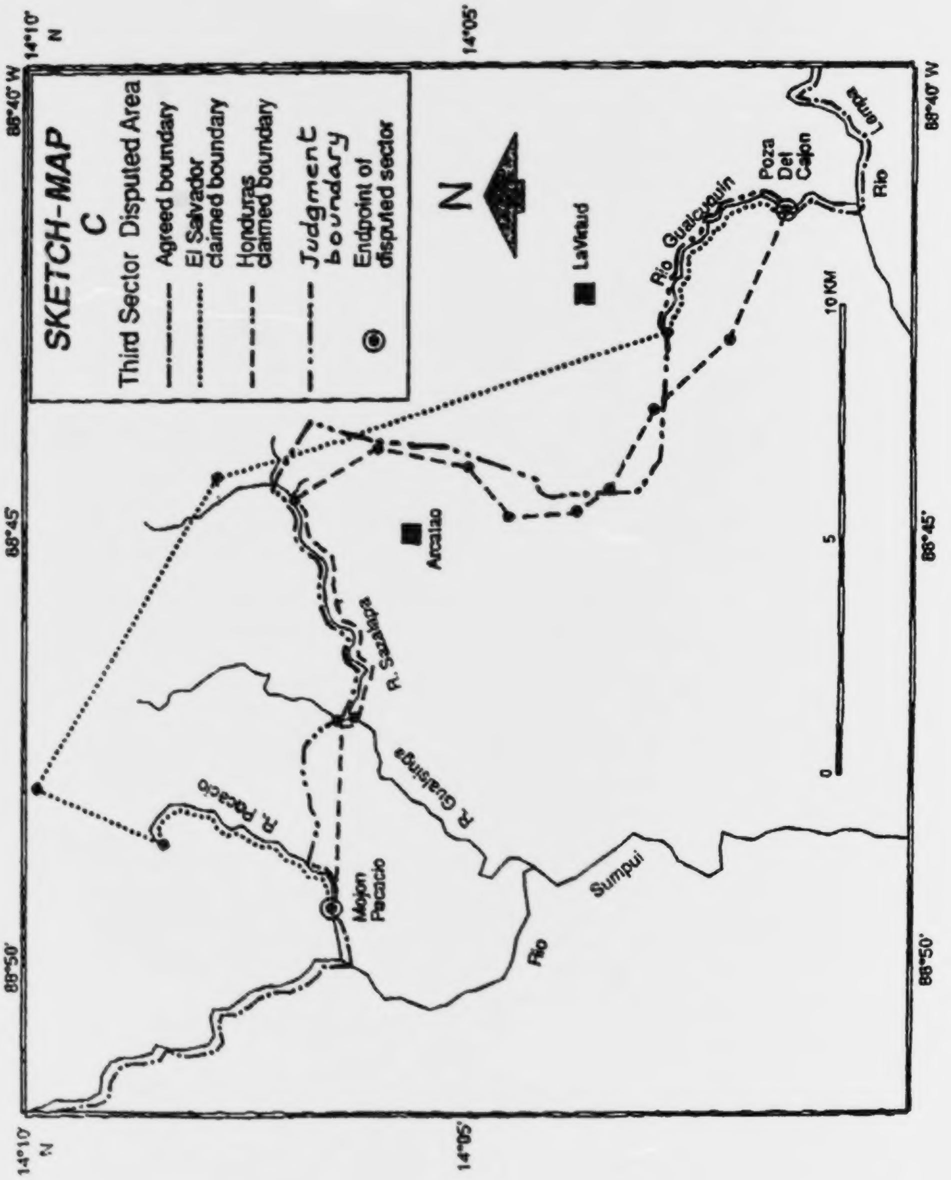
[1] See sketch-map B annexed; for the identification letters and co-ordinates of the various defined points, see the operative clause of the Judgment, set out below, and the 1 : 50,000 maps available for inspection in the Registry.


SKETCH-MAP
C
Third Sector Disputed Area
Agreed boundary
El Salvador claimed boundary
Honduras claimed boundary
Judgment boundary
Endpoint of disputed sector
N
La Virtud
Arcatao
Rio Gualcuquin
Poza Del Cajon
Rio
Lempa
R. Sazalapa
R. Gualsinga
R. Pacacio
Mojon Pacacio
Sumpul
Rio
0
5
10 KM
88°40' W
88°45'
88°50'
14°10' N
14°05'

further area, outside the asserted limits of the Arcatao and Nombre de Jesús titles, on the basis of *effectivités* and human arguments.

The Chamber first surveyed the *uti possidetis juris* position on the basis of the various titles produced.

With regard to the first part of the third sector, the Chamber upheld Honduras's contention in principle that the position of the pre-independence provincial boundary was defined by two 18th century Honduran titles. After first reserving the question of precisely where their southern limits lay, since if the Chamber had found in favour of El Salvador's claim based on *effectivités*, it would not have had to be considered, the Chamber ultimately determined the boundary in that area on the basis of those titles.

As for the second part of the third sector, the Chamber considered it impossible to reconcile all the landmarks, distances and directions given in the various 18th century surveys: the most that could be achieved was a line which harmonized with such features as were identifiable with a high degree of probability, corresponded more or less to the recorded distances and did not leave any major discrepancy unexplained. The Chamber considered that three features were identifiable and that those three reference points made it possible to reconstruct the boundary between the Province of Gracias a Dios and that of San Salvador in the area under consideration and thus the *uti possidetis juris* line, which the Chamber described.

With regard to the third part of the sector, the Chamber considered that on the basis of the reconstructed 1742 title of Nombre de Jesús and the 1766 and 1786 surveys of San Juan de Arcatao, it was established that the *uti possidetis juris* line corresponded to the boundary between those two properties, which line the Chamber described. In order to define the line more precisely the Chamber considered it legitimate to have regard to the republican titles granted by Honduras in the region, the line found by the Chamber being consistent with what it regarded as the correct geographical location of those titles.

Having completed its survey of the *uti possidetis juris* position, the Chamber examined the claims made in the whole of the third sector on the basis of *effectivités*. Regarding the claims made by El Salvador on such grounds, the Chamber was unable to regard the relevant material as sufficient to affect its conclusion as to the position of the boundary. The Chamber reached the same conclusion as regards the evidence of *effectivités* submitted by Honduras.

The Chamber's conclusion regarding the course of the boundary in the third sector was as follows[1]:

> "From the Pacacio boundary marker . . . along the Río Pacacio

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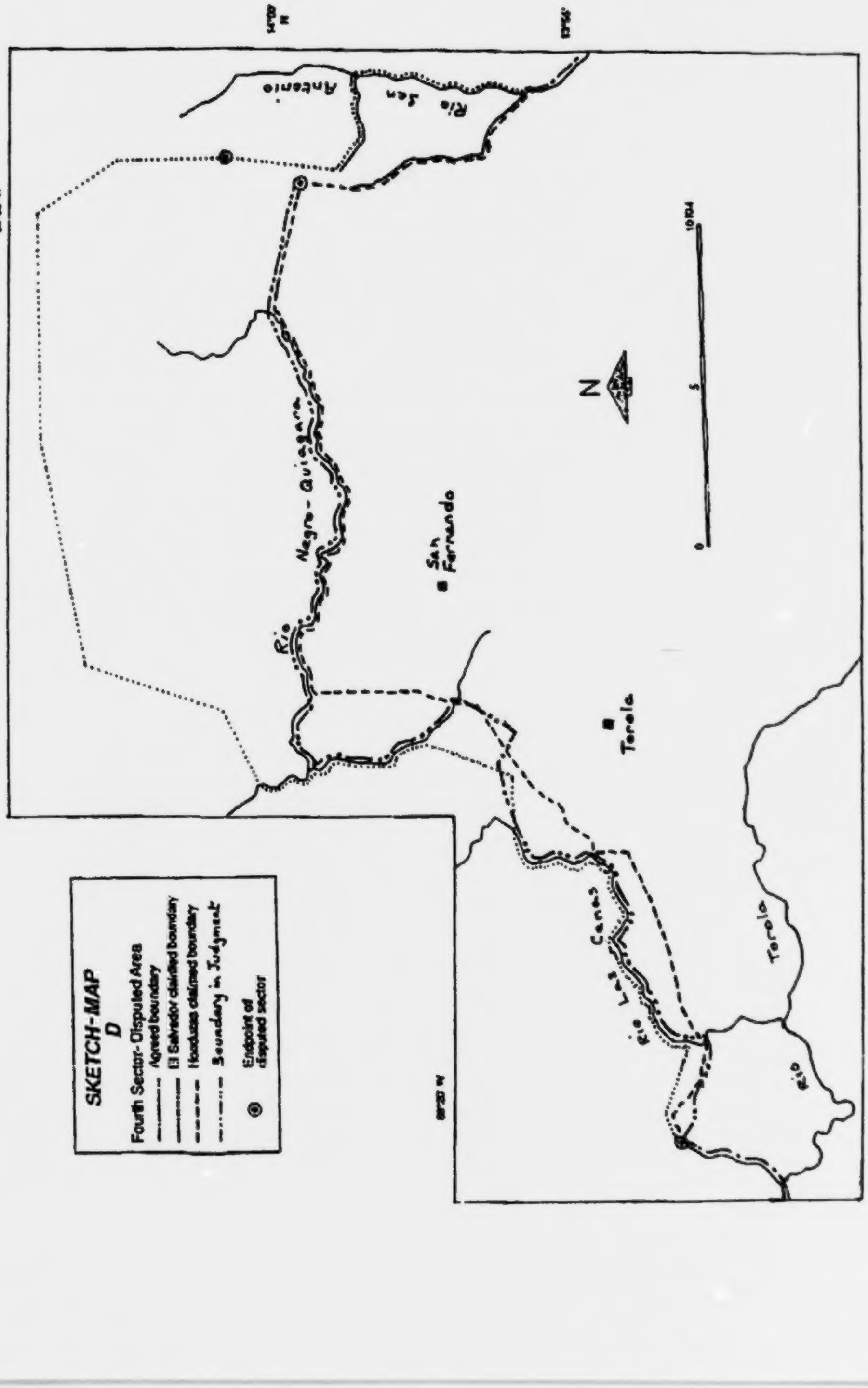
[1] See sketch-map C annexed; for the identification letters and co-ordinates of the various defined points, see the operative clause of the Judgment, set out below, and the 1 : 50,000 maps available for inspection in the Registry.

upstream to a point . . . west of the Cerro Tecolate or Los Tecolates; from there up the *quebrada* to the crest of the Cerro Tecolato or Los Tecolates . . ., and along the watershed of this hill as far as a ridge approximately 1 kilometre to the north-east . . .; from there in an easterly direction to the neighbouring hill above the source of the Torrente La Puerta . . . and down that stream to where it meets the river Gualsinga . . .; from there the boundary runs along the middle of the river Gualsinga downstream to its confluence with the Sazalapa . . ., and thence upstream along the middle of the river Sazalapa to the confluence with the river Sazalapa of the *quebrada* Llano Negro . . .; from there south-eastwards to the hill indicated . . ., and thence to the crest of the hill marked on maps as being an elevation of 1,017 metres . . .; from there the boundary, inclining still more to the south, runs through the triangulation point known as La Cañada . . . to the ridge joining the hills indicated on the El Salvador map as Cerro El Caracol and Cerro El Sapo . . ., and from there to the feature marked on the maps as the Portillo El Chupa Miel . . .; from there following the ridge to the Cerro El Cajete . . ., and thence to the point where the present-day road from Arcatao to Nombre de Jesús passes between the Cerro El Ocotillo and the Cerro Lagunetas . . .; from there south-eastwards, to the top of the hill . . . marked on the maps with a spot height of 848 metres; from there slightly south of east to a small *quebrada*; eastwards down the bed of the *quebrada* to its junction with the river Amatillo or Gualcuquín . . .; the boundary then follows the middle of the Gualcuquín river downstream to the Poza del Cajón . . ., the point where the next agreed sector of boundary begins."

VII. Fourth sector of the land boundary (paras. 186-267)

The fourth and longest disputed sector of the land boundary, also involving the largest area in dispute, lay between the source of the Orilla stream and the Malpaso de Similatón boundary marker (see sketch-map D annexed).

The principal issue in that sector, at least as regards the size of the area concerned, was whether the boundary followed the river Negro-Quiagara, as Honduras contended, or a line contended for by El Salvador, some 8 kilometres to the north. In terms of the *uti possidetis juris* principle, the issue was whether or not the province of San Miguel, which on independence had become part of El Salvador, extended to the north of that river or whether on the contrary the latter was in 1821 the boundary between that province and the province of Comayagua, which became part of Honduras. El Salvador relied on a title issued in 1745 to the communities of Arambala and Perquín in the province of San Miguel; the lands so granted extended north and south of the river Negro-Quiagara, but Honduras contended that, north of that river, the lands were in the province of Comayagua.


SKETCH-MAP
D
Fourth Sector - Disputed Area
Agreed boundary
El Salvador claimed boundary
Honduras claimed boundary
Boundary in Judgment
Endpoint of disputed sector
Rio San Antonio
Rio Negro - Quiagara
San Fernando
Torola
Rio Las Cañas
Torola
Rio
N
0
5
10 Km
88°05' W
88°15'
88°20' W
14°05' N
13°56'

The Chamber first set out the relevant events, in particular a dispute between the Indian community of Arambala and Perquín, in the province of San Miguel, and an Indian community established in Jocora or Jocoara in the province of Comayagua. The position of the boundary between the province of San Miguel and that of Comayagua had been one of the main issues in the dispute between the two communities, which had given rise to a judicial decision of 1773. In 1815 a decision had been issued by the Real Audiencia of Guatemala confirming the rights of the Indians of Arambala-Perquín. The Parties had made extensive reference to those decisions in support of their contentions as to the location of the boundary; the Chamber was however reluctant to base a conclusion, one way or the other, on the 1773 decision and did not regard the 1815 one as wholly conclusive in respect of the location of the provincial boundary.

The Chamber then considered a contention by Honduras that El Salvador had in 1861 admitted that the Arambala-Perquín *ejidos* extended across the provincial boundary. It referred to a note of 14 May 1861 in which the Minister for Foreign Relations of El Salvador had suggested negotiations to settle a long-standing dispute between the inhabitants of the villages of Arambala and Perquín, on the one hand, and the village of Jocoara, on the other, and to the report of surveyors appointed to resolve the inter-village dispute. It considered that note to be significant not only as, in effect, a recognition that the lands of the Arambala-Perquín community had, prior to independence, straddled the provincial boundary, but also as recognition that, as a result, they straddled the international frontier.

The Chamber then turned to the south-western part of the disputed boundary, referred to as the sub-sector of Colomoncagua. The problem here was, in broad terms, the determination of the extent of the lands of Colomoncagua, province of Comayagua (Honduras), to the west, and those of the communities of Arambala-Perquín and Torola, Province of San Miguel (El Salvador), to the east and south-east. Both Parties relied on titles and other documents of the colonial period; El Salvador had also submitted a remeasurement and renewed title of 1844. The Chamber noted that apart from the difficulties of identifying landmarks and reconciling the various surveys, the matter was complicated by doubts each Party cast on the regularity or relevance of titles invoked by the other.

After listing chronologically the titles and documents claimed by the one side or the other to be relevant, the Chamber assessed five of these documents to which the Parties had taken objection on various grounds.

The Chamber went on to determine, on the basis of an examination of the titles and an assessment of the arguments advanced by the Parties by reference to them, the line of the *uti possidetis juris* in the sub-sector under consideration. Having established that the inter-provincial boundary was, in one area, the river Las Cañas, the Chamber relied on a presumption that such a boundary was likely to follow the river so long as its course was in the same general direction.

The Chamber then turned to the final section of the boundary between the river Las Cañas and the source of the Orilla stream (end-point of the sector). With respect to that section, the Chamber accepted the line claimed by Honduras on the basis of a title of 1653.

The Chamber next addressed the claim of El Salvador, based upon the *uti possidetis juris* in relation to the concept of *tierras realengas* (crown land), to areas to the west and south-west of the land comprised in the *ejidos* of Arambala Perquín, lying on each side of the river Negro-Quiagara, bounded on the west by the river Negro-Pichigual. The Chamber found in favour of part of El Salvador's claim, south of the river Negro-Pichigual, but was unable to accept the remainder.

The Chamber had finally to deal with the eastern part of the boundary line, that between the river Negro-Quiagara and Malpaso de Similatón. An initial problem was that the Parties did not agree on the position of the Malpaso de Similatón, although this point defined one of the agreed sectors of the boundary as recorded in Article 16 of the 1980 Peace Treaty, the two locations contended for being 2,500 metres apart. The Chamber therefore concluded that there was a dispute between the Parties on that point, which it had to resolve.

The Chamber noted that that dispute was part of a disagreement as to the course of the boundary beyond the Malpaso de Similatón, in the sector which was deemed to have been agreed. While it did not consider that it had jurisdiction to settle disputed questions in an "agreed" sector, neither did it consider that the existence of such a disagreement affected its jurisdiction to determine the boundary up to and including the Malpaso de Similatón.

Noting that neither side had offered any evidence whatever as to the line of the *uti possidetis juris* in this region, the Chamber, being satisfied that this line was impossible to determine in that area, considered it right to fall back on equity *infra legem*, in conjunction with an unratified delimitation of 1869. The Chamber considered that it could in that case resort to the line then proposed in negotiations, as a reasonable and fair solution in all the circumstances, particularly since there was nothing in the records of the negotiations to suggest any fundamental disagreement between the Parties on that line.

The Chamber then considered the question of the *effectivités* El Salvador claimed in the area north of the river Negro-Quiagara, which the Chamber had found to fall on the Honduran side of the line of the *uti possidetis juris*, as well as the areas outside those lands. After reviewing the evidence presented by El Salvador, the Chamber found that, to the extent that it could relate various place-names to the disputed areas and to the *uti possidetis juris* boundary, it could not regard that material as sufficient evidence of any kind of *effectivités* which could be taken into account in determining the boundary.

Turning to the *effectivités* claimed by Honduras, the Chamber did not see here sufficient evidence of Honduran *effectivités* in an area clearly shown to be on the El Salvador side of the boundary line to justify doubting that that boundary represented the *uti possidetis juris* line.

The Chamber's conclusion regarding the course of the boundary in the fourth disputed sector was as follows[1]:

> "from the source of the Orilla stream . . . the boundary runs through the pass of El Jobo to the source of the Cueva Hedionda stream . . ., and thence down the middle of that stream to its confluence with the river Las Cañas . . ., and thence following the middle of the river upstream as far as a point . . . near the settlement of Las Piletas; from there eastwards over a col . . . to a hill . . ., and then north-eastwards to a point on the river Negro or Pichigual . . .; downstream along the middle of the river Negro or Pichigual to its confluence with the river Negro-Quiaguara . . .; then upstream along the middle of the river Negro-Quiaguara as far as the Las Pilas boundary marker . . ., and from there in a straight line to the Malpaso de Similatón as identified by Honduras".

VIII. Fifth sector of the land boundary (paras. 268-305)

The fifth disputed sector extended from "the point on [the] north bank [of the river Torola] where it is joined by the Manzupucagua stream" to the Paso de Unire in the Unire river (see sketch-map E annexed).

El Salvador's claim was based essentially on the *titulo ejidal* granted to the village of Polorós, Province of San Miguel, in 1760, following a survey; the boundary line El Salvador claimed was what it considered to be the northern boundary of the lands comprised in that title, save for a narrow strip on the western side, claimed on the basis of "human arguments".

Honduras, while disputing El Salvador's geographic interpretation of the Polorós title, conceded that it extended across part of the river Torola, but nevertheless claimed that the present-day frontier should follow that river. It contended that the northern part of the *ejidos* granted to Polorós in 1760, including all the lands north of the river and also extending south of it, had formerly been the land of San Miguel de Sapigre, a village which had disappeared owing to an epidemic some time after 1734, and that the village had been in the jurisdiction of Comayagua, so that those lands, although granted to Polorós, remained within that jurisdiction. It followed, according to Honduras, that the *uti possidetis juris* line ran along the boundary between those lands and the other Polorós lands; but Honduras conceded that as a result of events in 1854 it acquiesced in a boundary further north, formed by the Torola. Alternatively Honduras claimed the Polorós lands north of the river on the basis that El Salvador had acquiesced, in the 19th century, in the Torola as frontier. The western part of the disputed area, which Honduras

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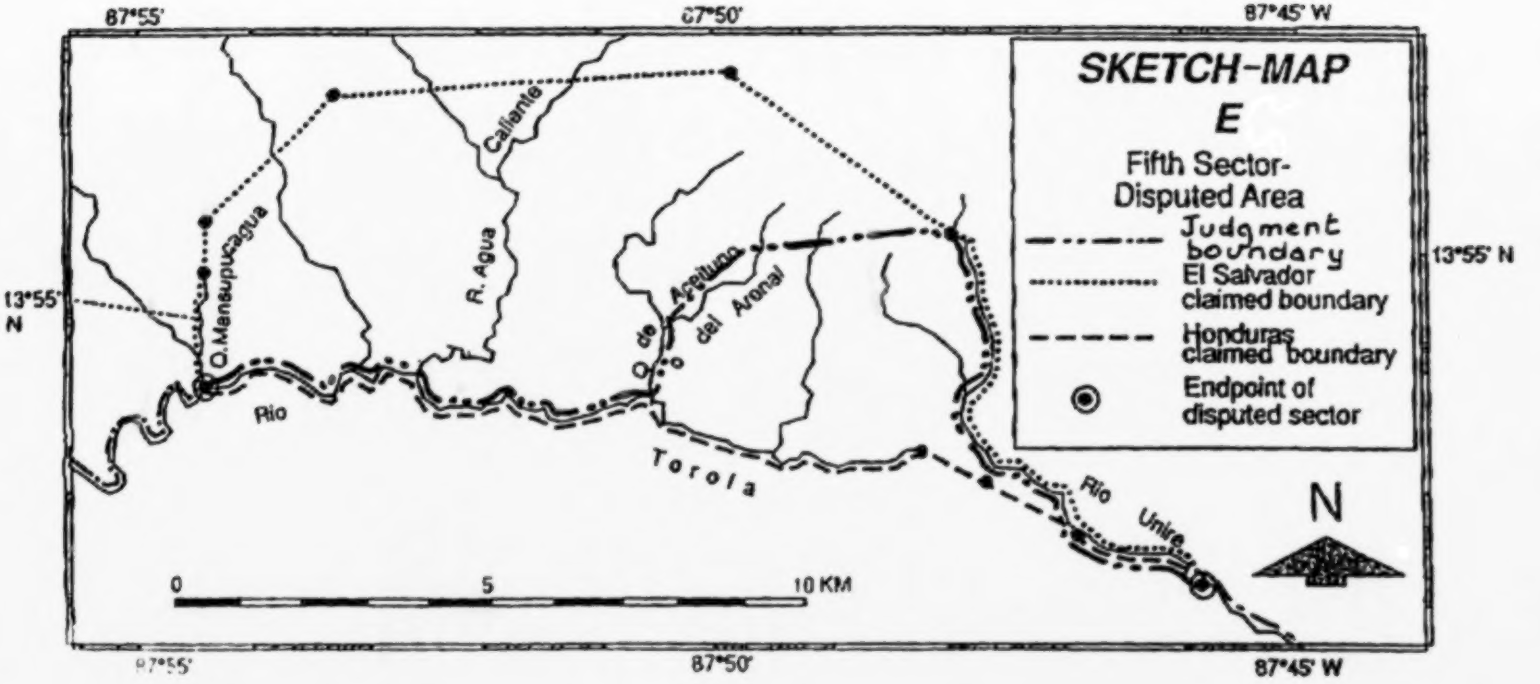
[1] See sketch-map D annexed; for the identification letters and co-ordinates of the various defined points, see the operative clause of the Judgment, set out below, and the 1 : 50,000 maps available for inspection in the Registry.



SKETCH-MAP E

Fifth Sector-Disputed Area

Judgment boundary
El Salvador claimed boundary
Honduras claimed boundary
Endpoint of disputed sector
N
87°55'
87°50'
87°45' W
13°55' N
13°55' N
0
5
10 KM
Caliante
R. Agua
Q. Mansupucagua
Q. de Aceituno
del Aronal
Rio
Torola
Rio Unire

considered to fall outside the Polorós title, was claimed by it as part of the lands of Cacaoterique, a village in the jurisdiction of Comayagua.

Noting that the title of Polorós had been granted by the authorities of the province of San Miguel, the Chamber considered that it must be presumed that the lands comprised in the survey had all been within the jurisdiction of San Miguel, a presumption which, the Chamber noted, was supported by the text.

After examining the available material as to the existence, location and extent of the village of San Miguel de Sapigre, the Chamber concluded that the claim of Honduras to that extinct village was not supported by sufficient evidence; it did not therefore have to go into the question of the effect of the inclusion in an *ejido* of one jurisdiction of *tierras realengas* of another. It concluded that the *ejido* granted in 1760 to the village of Polorós, in the Province of San Miguel, had been wholly situated in that province and that accordingly the provincial boundary lay beyond the northern limit of that *ejido* or coincided with it. There being equally no evidence of any change in the situation between 1760 and 1821, the *uti possidetis juris* line might be taken to have been in the same position.

The Chamber then examined the claim of Honduras that, whatever the 1821 position, El Salvador had, by its conduct between 1821 and 1897, acquiesced in the river Torola as boundary. The conduct in question had been the granting by the Government of El Salvador, in 1842, of a title to an estate that both Parties claimed was carved out of the *ejidos* of Polorós and El Salvador's reaction, or lack of reaction, to the granting of two titles over lands north of the river Torola by Honduras in 1856 and 1879. From an examination of those events, the Chamber did not find it possible to uphold Honduras's claim that El Salvador had acquiesced in the river Torola as the boundary in the relevant area.

The Chamber went on to interpret the extent of the Polorós *ejido* as surveyed in 1760, on the face of the text and in the light of developments after 1821. Following a lengthy and detailed analysis of the Polorós title, the Chamber concluded that neither of the interpretations of it by the Parties could be reconciled with the relevant landmarks and distances; the inconsistency crystallized during the negotiations that led up to the unratified Cruz-Letona Convention in 1884. In the light of certain republican titles, the Chamber arrived at an interpretation of the Polorós title which, if not perfectly in harmony with all the relevant data, produced a better fit than either of the Parties' interpretations. As to neighbouring titles, the Chamber took the view that, on the material available, no totally consistent mapping of the Polorós title and the survey of Cacaoterique could be achieved.

In the eastern part of the sector, the Chamber noted that the Parties agreed that the river Unire constituted the boundary of their territories for some distance upstream of the "Paso de Unire", but disagreed as to which of two tributaries was to be regarded as the headwaters of the Unire. Honduras claimed that between the Unire and the headwaters of the Torola the boundary was a straight line corresponding to the south-western limit of the lands comprised in the 1738 Honduran title of San Antonio de Padua. After analysing the Polorós title and 1682 and 1738 surveys of San Antonio, the Chamber found that it was not convinced by the Honduran argument that the San Antonio lands had extended westwards across the river Unire and held that it was the river which was the *uti possidetis juris* line, as claimed by El Salvador.

To the west of the Polorós lands, since El Salvador's claim to land north of the river was based solely on the Polorós title (save for the strip on the west claimed on the basis of "human arguments'), the river Torola formed the boundary between the Polorós lands and the starting point of the sector. With regard to the strip of land claimed by El Salvador on the west, the Chamber considered that, for lack of evidence, that claim could not be sustained.

Turning finally to the evidence of *effectivités* submitted by Honduras with respect to all six sectors, the Chamber concluded that this was insufficient to justify re-examining its conclusion as to the boundary line.

The Chamber's conclusion regarding the course of the boundary in the fifth disputed sector was as follows[1]:

> "From the confluence with the river Torola of the stream identified in the General Treaty of Peace as the *quebrada* de Mansupucagua . . . the boundary runs upstream along the middle of the river Torola as far as its confluence with a stream known as the *quebrada* del Arenal or *quebrada* de Aceituno . . .; thence up the middle of the course of that stream as far as [a] point, at or near its source, . . ., and thence in a straight line somewhat north of east to a hill some 1,100 metres high . . .; thence in a straight line to a hill near the river Unire . . ., and thence to the nearest point on the river Unire; downstream along that river to the point known as the Paso de Unire . . ."

IX. Sixth sector of the land boundary (paras. 306-322)

The sixth and final disputed sector of the land boundary was that between a point on the river Goascorán known as Los Amates, and the waters of the Gulf of Fonseca (see sketch-map F annexed). Honduras contended that in 1821 the river Goascorán had constituted the boundary between the colonial units to which the two States had succeeded, that there had been no material change in the course of the river since 1821, and that the boundary therefore followed the present stream flowing into the Gulf north-west of the Islas Ramaditas in the Bay of La Unión. El Salvador however claimed that it was a previous course followed by the

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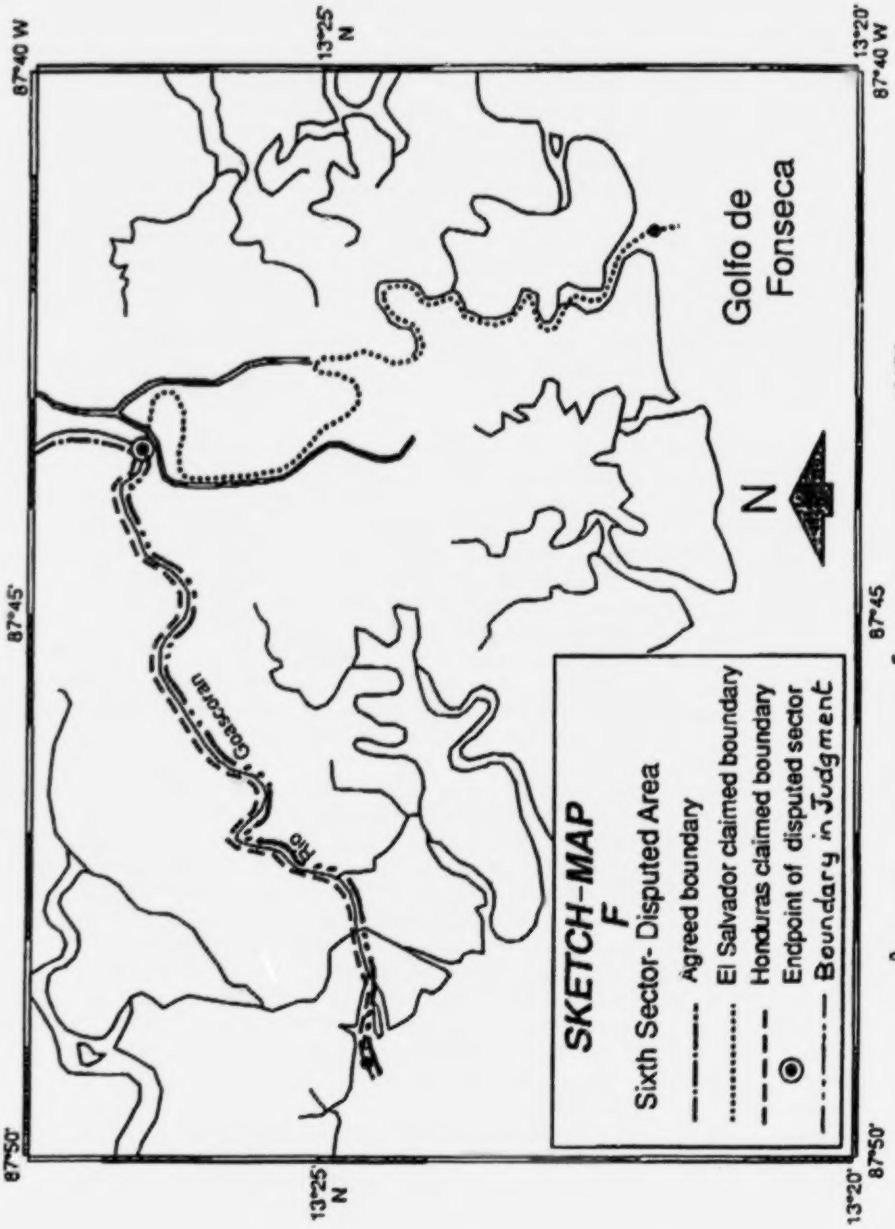
[1] See sketch-map E annexed; for the identification letters and co-ordinates of the various defined points, see the operative clause of the Judgment, set out below, and the 1 : 50,000 maps available for inspection in the Registry.


SKETCH-MAP
F
Sixth Sector- Disputed Area
Agreed boundary
El Salvador claimed boundary
Honduras claimed boundary
Endpoint of disputed sector
Boundary in Judgment
Golfo de Fonseca
Rio Goascoran
N
0
5
10 KM
87°40 W
87°45'
87°50'
13°25' N
13°20'
87°40 W
87°45
87°50'
13°20'

river which defined the boundary and that that course could be traced and reached the Gulf at Estero La Cutú.

The Chamber began by examining an argument El Salvador based on history. The Parties agreed that during the colonial period a river called the Goascorán had constituted the boundary between the province of San Miguel and the Alcaldía Mayor de Minas of Tegucigalpa, and that El Salvador had succeeded on independence to the territory of the province; but El Salvador denied that Honduras had acquired any rights over the former territory of the Alcaldía Mayor of Tegucigalpa, which according to El Salvador had not in 1821 belonged to the province of Honduras but had been an independent entity. The Chamber however observed that on the basis of the *uti possidetis juris*, El Salvador and Honduras had succeeded to all the relevant colonial territories, leaving no *terra nullius*, and that the former Alcaldía Mayor had at no time after 1821 been an independent state additional to them. Its territory had had to pass either to El Salvador or to Honduras and the Chamber understood it to have passed to Honduras.

The Chamber observed that El Salvador's argument of law, on the basis that the former bed of the river Goascorán formed the *uti possidetis juris* boundary, was that where a boundary was formed by the course of a river and the stream suddenly formed a new bed, that process of "avulsion" did not bring about a change in the boundary, which continued along the old channel. No record of an abrupt change of course having occurred had been brought to the Chamber's attention, but had the Chamber been satisfied that the course had earlier been so radically different from its present one, then an avulsion might reasonably have been inferred. The Chamber noted that there was no scientific evidence that the previous course had been such that the river had debouched in the Estero La Cutú rather than in any of the other neighbouring inlets in the coastline.

El Salvador's case appeared to be that if the change in the river's course had occurred after 1821, the river had been the boundary which under the *uti possidetis juris* had become the international frontier, and would have been maintained as it was by virtue of a rule of international law; if the course had changed before 1821 and no further change had taken place after 1821, El Salvador's claim to the "old" course as the modern boundary would have been based on a rule concerning avulsion which would have been one not of international law but of Spanish colonial law. El Salvador had not committed itself to an opinion on the position of the river in 1821, but did contend that a rule on avulsion supporting its claim had been part of Spanish colonial law.

In the Chamber's view, however, any claim by El Salvador that the boundary followed an old course of the river abandoned at some time *before* 1821 had to be rejected. It was a claim that was first made in 1972 and was inconsistent with the previous history of the dispute.

The Chamber then turned to the evidence concerning the course of the Goascorán in 1821. El Salvador relied on certain titles to private lands, beginning with a 1695 survey. Honduras produced land titles dating from the 17th and 19th centuries as well as a map or chart of the Gulf of Fonseca prepared by an expedition in 1794-1796, and a map of 1804.

The Chamber considered that the report of the expedition that led to the preparation of the 1796 map, and the map itself, left little room for doubt that in 1821 the Goascorán had already been flowing in its present-day course. It emphasized that the 1796 map was not one which purported to indicate frontiers or political divisions, but the visual representation of what had been recorded in the contemporary report. The Chamber saw no difficulty in basing a conclusion on the expedition report combined with the map.

The Chamber added that similar weight might be attached to the conduct of the Parties in negotiations in 1880 and 1884. In 1884 it had been agreed that the Goascorán river was to be regarded as the boundary between the two Republics, "from its mouth in the Gulf of Fonseca . . . upstream as far as the confluence with the Guajiniquil or Pescado river . . .", and the 1880 record referred to the boundary following the river from its mouth "upstream in a north-easterly direction", i.e., the direction taken by the present course, not the hypothetical old course of the river. The Chamber also observed that an interpretation of those texts as referring to the old course of the river was untenable in view of the cartographic material of the period, presumably available to the delegates, which pointed overwhelmingly to the river being then in its present course and forming the international boundary.

Referring to a suggestion by El Salvador that the river Goascorán would have returned to its old course had it not been prevented from so doing by a wall or dike built by Honduras in 1916, the Chamber did not consider that this allegation, even if proved, would have affected its decision.

At its mouth in the Bay of La Unión the river divided into several branches, separated by islands and islets. Honduras had indicated that its claimed boundary passed to the north-west of those islands, thus leaving them all in Honduran territory. El Salvador, contending as it did that the boundary did not follow the present course of the Goascorán at all, had not expressed a view on whether a line following that course should pass north-west or south-east of the islands or between them. The area at stake was very small and the islets involved did not seem to have been inhabited or habitable. The Chamber considered, however, that it would not have completed its task of delimiting the sixth sector were it to have left unsettled the question of the choice of one of the present mouths of the Goascorán as the situation of the boundary line. It noted at the same time that the material on which to found a decision was scanty. After describing the position taken by Honduras since negotiations held in 1972, as well as its position during the work of the Joint Frontier Commission and in its submissions, the Chamber considered that it might uphold the relevant Honduran submissions in the terms in which they were presented.

The Chamber's conclusion regarding the sixth disputed sector was as follows[1]:

> "From the point known as Los Amates . . . the boundary follows the middle of the bed of the river Goascorán to the point where it emerges in the waters of the Bahía La Unión, Gulf of Fonseca, passing to the north-west of the Islas Ramaditas."

X. Legal situation of the islands (paras. 323-368)

The major islands in the Gulf were indicated on sketch-map G annexed. El Salvador asked the Chamber to declare that it had sovereignty over all the islands within the Gulf except Zacate Grande and the Farallones; Honduras asked it to declare that only Meanguera and Meanguerita islands were in dispute between the Parties and that Honduras had sovereignty over them.

In the view of the Chamber the provision of the Special Agreement that it determine *"la situación jurídica insular"* conferred upon it jurisdiction in respect of all the islands of the Gulf. A judicial determination, however, was only required in respect of such islands as were in dispute between the Parties; this excluded, *inter alia*, the Farallones, which were recognized by both Parties as belonging to Nicaragua.

The Chamber considered that prima facie the existence of a dispute over an island can be deduced from the fact of its being the subject of specific and argued claims. Noting that El Salvador had pressed its claim to El Tigre island with arguments in support and that Honduras had advanced counter-arguments, though with the object of showing that there was no dispute over El Tigre, the Chamber considered that, either since 1985 or at least since issue had been joined in the current proceedings, the islands in dispute were El Tigre, Meanguera and Meanguerita.

Honduras contended however that, since the 1980 General Treaty of Peace used the same terms as Article 2, paragraph 2, of the Special Agreement, the jurisdiction of the Chamber had to be limited to the islands in dispute at the time the Treaty was concluded, i.e., Meanguera and Meanguerita, the Salvadorian claim to El Tigre having been made only in 1985. The Chamber however observed that the question whether a given island was in dispute was relevant, not to the question of the existence of jurisdiction, but to that of its exercise. Honduras also claimed that there was no real dispute over El Tigre, which had since 1854 been recognized by El Salvador as belonging to Honduras, but that El Salvador had made a belated claim to it as a political or tactical move. The Chamber noted that for it to find that there was no dispute would require it first to determine that El Salvador's claim was wholly unfounded, and to do so could hardly be viewed as anything but the determination of a dispute. The Chamber therefore concluded that it ought to determine

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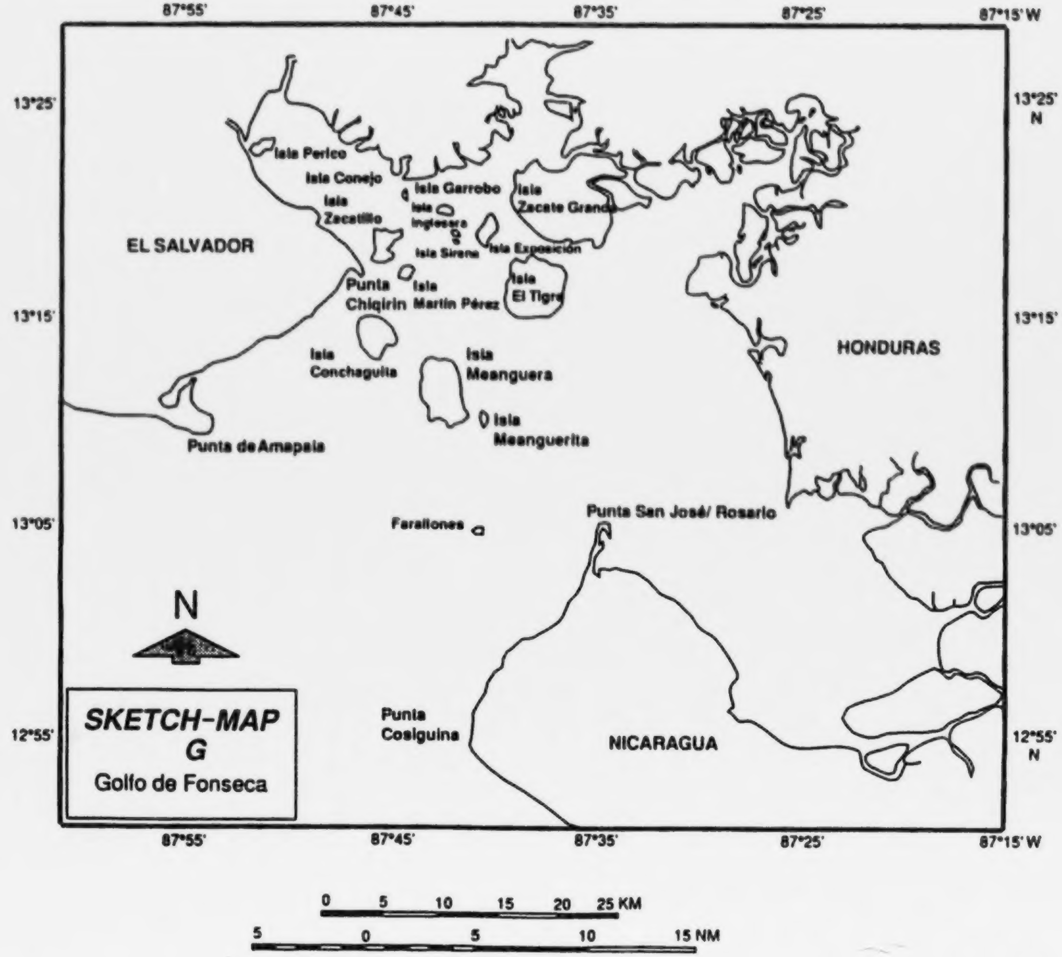
[1] See sketch-map F annexed; for the identification letters and co-ordinates of the various defined points, see the operative clause of the Judgment, set out below, and the 1 : 50,000 maps available for inspection in the Registry.


87°55'
87°45'
87°35'
87°25'
87°15' W
13°25'
13°25' N
13°15'
13°05'
12°55'
12°55' N
EL SALVADOR
HONDURAS
NICARAGUA
Isla Perico
Isla Conejo
Isla Zacatillo
Isla Garrobo
Isla Inglesera
Isla Sirena
Isla Zacate Grande
Isla Exposición
Isla El Tigre
Punta Chiqirin
Isla Martín Pérez
Isla Conchagüita
Isla Meanguera
Isla Meanguerita
Punta de Amapala
Farallones
Punta San José/ Rosario
Punta Cosigüina
N
SKETCH-MAP
G
Golfo de Fonseca
0 5 10 15 20 25 KM
5 0 5 10 15 NM

whether Honduras or El Salvador had jurisdiction over each of the islands of El Tigre, Meanguera and Meanguerita.

Honduras contended that by virtue of Article 26 of the General Treaty of Peace the law applicable to the dispute was solely the *uti possidetis juris* of 1821, while El Salvador maintained that the Chamber had to apply the modern law on acquisition of territory and look at the effective exercise or display of State sovereignty over the islands as well as historical titles.

The Chamber had no doubt that the determination of sovereignty over the islands had to start with the *uti possidetis juris*. In 1821, none of the islands of the Gulf, which had been under the sovereignty of the Spanish Crown, were *terra nullius*. Sovereignty over them could therefore not be acquired by occupation and the matter was thus one of the succession of the newly independent States to the islands. The Chamber would therefore consider whether the appurtenance in 1821 of each disputed island to one or the other of the various administrative units of the Spanish colonial structure could be established, regard being had not only to legislative and administrative texts of the colonial period, but also to "colonial *effectivités*". The Chamber observed that in the case of the islands the legal and administrative texts were confused and conflicting, and that it was possible that Spanish colonial law had given no clear and definite answer as to the appurtenance of some areas. It therefore considered it particularly appropriate to examine the conduct of the new States during the period immediately after 1821. Claims then made, and the reaction – or lack of reaction – to them might throw light on the contemporary appreciation of what the situation in 1821 had been, or should be taken to have been.

The Chamber noted that El Salvador claimed all the islands in the Gulf (except Zacate Grande) on the basis that during the colonial period they had been within the jurisdiction of the township of San Miguel in the colonial province of San Salvador, which in turn had been within the jurisdiction of the Real Audiencia of Guatemala. Honduras asserted that the islands formed part of the bishopric and province of Honduras, that the Spanish Crown had attributed Meanguera and Meanguerita to that province and that ecclesiastical jurisdiction over the islands appertained to the parish of Choluteca and the Guardanía of Nacaome, assigned to the bishopric of Comayagua. Honduras had also presented an array of incidents and events by way of colonial *effectivités*.

The fact that the ecclesiastical jurisdiction had been relied on as evidence of "colonial *effectivités*" presented difficulties, as the presence of the church on the islands, which were sparsely populated, had not been permanent.

The Chamber's task was made more difficult by the fact that many of the historical events relied on could be, and had been, interpreted in different ways and thus used to support the arguments of either Party.

The Chamber considered it unnecessary to analyse in further detail the arguments advanced by each Party to show that it had acquired sovereignty over some or all of the islands by the application of the *uti possidetis juris* principle, the material available being too fragmentary and ambiguous to admit of any firm conclusion. The Chamber had therefore to consider the post-independence conduct of the Parties, as indicative of what had to have been the 1821 position. This might be supplemented by considerations independent of the *uti possidetis juris* principle, in particular the possible significance of the conduct of the Parties as constituting acquiescence. The Chamber also noted that under Article 26 of the General Treaty of Peace, it might consider all "other evidence and arguments of a legal, historical, human or other kind, brought before it by the Parties and admitted under international law".

The law of acquisition of territory, invoked by El Salvador, was in principle clearly established and buttressed by arbitral and judicial decisions. The difficulty with its application in the instant case was that it had been developed primarily to deal with the acquisition of sovereignty over *terra nullius*. Both Parties however asserted a title of succession from the Spanish Crown, so that the question arose whether the exercise or display of sovereignty by the one Party, particularly when coupled with lack of protest by the other, could indicate the presence of an *uti possidetis juris* title in the former Party, where the evidence based on titles or colonial *effectivités* was ambiguous. The Chamber noted that in the *Minquiers and Ecrehos* case in 1953 the Court had not simply disregarded the ancient titles and decided on the basis of more recent displays of sovereignty.

In the view of the Chamber, where the relevant administrative boundary in the colonial period had been ill-defined or its position disputed, the behaviour of the two States in the years following independence might serve as a guide to where the boundary was, either in their shared view, or in the view acted on by one and acquiesced in by the other.

Being uninhabited or sparsely inhabited, the islands had not aroused any interest or dispute until the years nearing the mid-19th century. What then occurred appears to be highly material. The islands were not *terra nullius* and in legal theory each island already appertained to one of the Gulf States as heir to the appropriate part of the Spanish colonial possession, which precluded acquisition by occupation; but effective possession by one of the States of an island could constitute a post-colonial *effectivité*, throwing light on the contemporary appreciation of the legal situation. Possession backed by the exercise of sovereignty might confirm the *uti possidetis juris* title. The Chamber did not find it necessary to decide whether such possession could be recognized even in contradiction of such a title, but in the case of the islands, where the historical material of colonial times was confused and contradictory and independence was not immediately followed by unambiguous acts of sovereignty, this was practically the only way in which the *uti possidetis juris* could find formal expression.

The Chamber dealt first with El Tigre, and reviewed the historical events concerning it from 1833 onward. Noting that Honduras had remained in effective occupation of the island since 1849, the Chamber concluded that the conduct of the Parties in the years following the dissolution of the Federal Republic of Central America was consistent with the assumption that El Tigre appertained to Honduras. Given the attachment of the Central American States to the principle of *uti possidetis juris*, the Chamber considered that that contemporary assumption also implied belief that Honduras was entitled to the island by succession from Spain or, at least, that such succession by Honduras was not contradicted by any known colonial title. Although Honduras had not formally requested a finding of its sovereignty over El Tigre, the Chamber considered that it should define its legal situation by holding that sovereignty over El Tigre belonged to Honduras.

Regarding Meanguera and Meanguerita, the Chamber observed that throughout the argument the two islands had been treated by both Parties as constituting a single insular unity. The smallness of Meanguerita, its contiguity to the larger island, and the fact that it was uninhabited allowed its characterization as a "dependency" of Meanguera. That Meanguerita was "capable of appropriation" was undoubted: although without fresh water, it was not a low-tide elevation and was covered by vegetation. The Parties had treated it as capable of appropriation, since they claimed sovereignty over it.

The Chamber noted that the initial formal manifestation of the dispute had occurred in 1854, when a circular letter had made widely known El Salvador's claim to the island. Furthermore, in 1856 and 1879 El Salvador's official journal had carried reports concerning administrative acts relating to it. The Chamber had seen no record of reactions or protests by Honduras over these publications.

The Chamber observed that from the late 19th century the presence of El Salvador on Meanguera had intensified, still without objection or protest from Honduras, and that it had received considerable documentary evidence on the administration of Meanguera by El Salvador. Throughout the period covered by that documentation there was no record of any protest by Honduras, with the exception of one recent event, described later. Furthermore, El Salvador had called a witness, a Salvadorian resident of the island, and his testimony, not challenged by Honduras, showed that El Salvador had exercised State power over Meanguera.

According to the material before the Chamber, it was only in January 1991 that the Government of Honduras had made protests to the Government of El Salvador concerning Meanguera, which had been rejected by the latter Government. The Chamber considered that the Honduran protest had been made too late to affect the presumption of acquiescence on the part of Honduras. The conduct of Honduras vis-à-vis earlier *effectivités* revealed some form of tacit consent to the situation.

The Chamber's conclusion was thus the following. In relation to the islands, the "documents which were issued by the Spanish Crown or by any other Spanish authority, whether secular or ecclesiastical", did not appear sufficient to "indicate the jurisdictions or limits of territories or settlements" in terms of Article 26 of that Treaty, so that no firm conclusion could be based upon such material, taken in isolation, for deciding between the two claims to an *uti possidetis juris* title. Under the final sentence of Article 26, the Chamber was however entitled to consider both the effective interpretation of the *uti possidetis juris* by the Parties, in the years following independence, as throwing light on the application of the principle, and the evidence of effective possession and control of an island by one Party without protest by the other, as pointing to acquiescence. The evidence as to possession and control, and the display and exercise of sovereignty, by Honduras over El Tigre and by El Salvador over Meanguera (to which Meanguerita was an appendage), coupled in each case with the attitude of the other Party, clearly showed that Honduras was treated as having succeeded to Spanish sovereignty over El Tigre, and El Salvador to Spanish sovereignty over Meanguera and Meanguerita.

XI. Legal situation of the maritime spaces (paras. 369-420)

The Chamber first recalled that Nicaragua had been authorized to intervene in the proceedings, but solely on the question of the legal régime of the waters of the Gulf of Fonseca. Referring to complaints by the Parties that Nicaragua had dealt with matters beyond the limits of its permitted intervention, the Chamber observed that it had taken account of Nicaragua's arguments only where they appeared relevant in its consideration of the régime of the waters of the Gulf of Fonseca.

The Chamber then referred to the disagreement between the Parties on whether Article 2, paragraph 2, of the Special Agreement empowered or required the Chamber to delimit a maritime boundary, within or without the Gulf. El Salvador maintained that "the Chamber has no jurisdiction to effect any delimitation of the maritime spaces", whereas Honduras sought the delimitation of the maritime boundary inside and outside the Gulf. The Chamber noted that those contentions had to be seen in relation to the position of the Parties as to the legal status of the Gulf waters: El Salvador claimed that they were subject to a condominium in favour of the three coastal States and that delimitation would therefore be inappropriate, whereas Honduras argued that within the Gulf there was a community of interests which necessitated a judicial delimitation.

In application of the normal rules of treaty interpretation (Article 31 of the Vienna Convention of the Law of Treaties), the Chamber first considered what was the "ordinary meaning" of the terms of the Special Agreement. It concluded that no indication of a common intention to obtain a delimitation from the Chamber could be derived from the text as it stood. Turning to the context, the Chamber observed that the Special Agreement used the wording "to delimit the boundary line" regarding the land frontier, while confining the task of the Chamber as it related to the islands and maritime spaces to "determine [their] legal situation", the same contrast of wording having been observed in Article 18, paragraph 2, of the General Treaty of Peace. Noting that Honduras itself recognized that the island dispute was not a conflict of delimitation but of attribution of sovereignty over a detached territory, the Chamber observed that it was difficult to accept that the wording "to determine the legal situation", used for both the islands and the maritime spaces, would have a completely different meaning regarding the islands and regarding maritime spaces.

Invoking the principle of effectiveness, Honduras argued that the context of the Treaty and the Special Agreement militated against the Parties having intended merely a determination of the legal situation of the spaces unaccompanied by delimitation, the object and purpose of the Special Agreement being to dispose completely of a long-standing corpus of disputes. In the Chamber's view, however, in interpreting a text of this kind, it had to have regard to the common intention as it was expressed. In effect, what Honduras was proposing was recourse to the "circumstances" of the conclusion of the Special Agreement, which constituted no more than a supplementary means of interpretation.

To explain the absence of any specific reference to delimitation in the Special Agreement, Honduras pointed to a provision in the Constitution of El Salvador such that its representatives could never have intended to sign a special agreement contemplating any delimitation of the waters of the Gulf. Honduras contended that it was for that reason that the expression "determine the legal situation" had been chosen, intended as a neutral term which would not prejudice the position of either Party. The Chamber was unable to accept that contention, which amounted to a recognition that the Parties had been unable to agree that the Chamber should have jurisdiction to delimit the waters of the Gulf. It concluded that the agreement between the Parties, expressed in Article 2, paragraph 2, of the Special Agreement, that the Chamber should determine the legal situation of the maritime spaces did not extend to their delimitation.

Relying on the fact that the expression "determine the legal situation of the island and the maritime spaces" was also used in Article 18 of the General Treaty of Peace of 1980, defining the role of the Joint Frontier Commission, Honduras invoked the subsequent practice of the Parties in the application of the Treaty and invited the Chamber to take into account the fact that the Joint Frontier Commission had examined proposals aimed at such delimitation. The Chamber considered that, while both customary law and the Vienna Convention on the Law of Treaties (Art. 31, para. 3 *(b)*) allowed such practice to be taken into account for purposes of interpretation, none of the considerations raised by Honduras could prevail over the absence from the text of any specific reference to delimitation.

The Chamber then turned to the legal situation of the waters of the Gulf, which fell to be determined by the application of "the rules of international law applicable between the Parties, including where pertinent, the provisions of the General Treaty of Peace", as provided in Articles 2 and 5 of the Special Agreement.

Following a description of the geographical characteristics of the Gulf, the coastline of which was divided between El Salvador, Honduras and Nicaragua (see sketch-map G annexed) and the conditions of navigation within it, the Chamber pointed out that the dimensions and proportions of the Gulf were such that it would nowadays be a juridical bay under the provisions (which might be found to express general customary law) of the Convention on the Territorial Sea and the Contiguous Zone (1958) and the Convention on the Law of the Sea (1982), the consequence being that, if it were a single-State bay, a closing line might now be drawn and the waters be thereby enclosed and "considered as internal waters". The Parties, the intervening State, as well as commentators generally, were agreed that the Gulf was an historic bay, and that its waters were accordingly historic waters. Such waters had been defined in the *Fisheries* case between the United Kingdom and Norway as "waters which are treated as internal waters but which would not have that character were it not for the existence of an historic title" (*I.C.J. Reports 1951*, p. 130). That ought to be read in the light of the observation in the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case, that

> "general international law . . . does not provide for a *single* 'régime' for 'historic waters' or 'historic bays', but only for a particular régime for each of the concrete, recognized cases of 'historic waters' or 'historic bays'" (*I.C.J. Reports 1982*, p. 74).

The Chamber concluded that it was clearly necessary to investigate the particular history of the Gulf to discover the "régime" resulting therefrom, adding that the particular historical régime established by practice had to be especially important in a pluri-State bay, a kind of bay for which there were notoriously no agreed and codified general rules of the kind so well established for single-State bays.

Since its discovery in 1522 until 1821, the Gulf had been a single-State bay the waters of which were under the single sway of the Spanish Crown. The rights in the Gulf of the present coastal States had thus been acquired, like their land territories, by succession from Spain. The Chamber had therefore to enquire into the legal situation of the waters of the Gulf in 1821; for the principle of *uti possidetis juris* ought to apply to those waters as well as to the land.

The legal status of the Gulf waters after 1821 was a question which had confronted the Central American Court of Justice in the case between El Salvador and Nicaragua concerning the Gulf in which it rendered its Judgement of 9 March 1917. That Judgement, which had examined the particular régime of the Gulf of Fonseca, had therefore to be taken into consideration as an important part of the Gulf's history. The case before the Central American Court had been brought by El Salvador against Nicaragua because of the latter's entry into the Bryan-Chamorro Treaty of 1914 with the United States, by which Nicaragua had granted the latter a concession for the construction of an interoceanic canal and of a naval base in the Gulf, an arrangement that would allegedly have prejudiced El Salvador's own rights in the Gulf.

On the underlying question of the status of the waters of the Gulf there had been three matters taken into account by the practice and the 1917 Judgement: first, the practice of all three coastal States had established and mutually recognized a 1 marine league (3 nautical miles) littoral maritime belt off their respective mainland coasts and islands, in which belt they each exercised an exclusive jurisdiction and sovereignty, though with rights of innocent passage conceded on a mutual basis; second, all three States had recognized a further belt of 3 marine leagues (9 nautical miles) for rights of "maritime inspection" for fiscal purposes and for national security; third, there had been an Agreement of 1900 between Honduras and Nicaragua by which a partial maritime boundary between the two States had been delimited, which, however, stopped well short of the waters of the main entrance to the bay.

Furthermore the Central American Court had unanimously held that the Gulf "is an historic bay possessed of the characteristics of a closed sea" and that ". . . the parties are agreed that the Gulf is a closed sea . . ."; by "closed sea" the Court seemed to mean simply that it was not part of the high seas and its waters were not international waters. At another point the Judgement described the Gulf as "an historic or vital bay".

The Chamber then pointed out that the term "territorial waters" used in the Judgement had not then necessarily indicated what would now be called "territorial sea"; and explained what may have appeared to be an inconsistency in the Judgement concerning rights of "innocent use", which were at odds with the present general understanding of the legal status of the waters of a bay as constituting "internal waters". The Chamber observed that the rules and principles normally applicable to single-State bays were not necessarily appropriate to a bay which was a pluri-State bay and also an historic one. Moreover, there was a need for shipping to have access to any of the three coastal States through the main channels between the bay and the ocean. Rights of innocent passage were not inconsistent with a régime of historic waters. There was furthermore the practical point that since those waters were outside the 3-mile maritime belt of exclusive jurisdiction in which innocent passage was nevertheless recognized in practice, it would have been absurd not to have recognized passage rights in those waters, which had to be crossed in order to reach those maritime belts.

All three coastal States continued to claim that the Gulf was an historic bay with the character of a closed sea, and it seemed also to continue to be the subject of that "acquiescence on the part of other nations" to which the 1917 Judgement referred; moreover that position had been generally accepted by commentators. The problem was the precise character of the sovereignty the three coastal States enjoyed in those historic waters. Recalling the former view that in a pluri-State bay, if it was not historic waters, the territorial sea followed the sinuosities of the coast and the remainder of the waters of the bay were part of the high seas, the Chamber noted that that solution was not possible in the case of the Gulf of Fonseca since it was an historic bay and therefore a "closed sea".

The Chamber then quoted the holding by the Central American Court that ". . . the legal status of the Gulf of Fonseca . . . is that of property belonging to the three countries that surround it . . ." and that ". . . the high parties are agreed that the waters which form the entrance to the Gulf intermingle . . .". In addition the Judgement had recognized that maritime belts of 1 marine league from the coast were within the exclusive jurisdiction of the coastal State and therefore ought to "be excepted from the community of interest or co-ownership". After quoting the paragraphs of the Judgement setting forth the Court's general conclusions, the Chamber observed that the essence of its decision on the legal status of the waters of the Gulf had been that those historic waters were then subject to a "co-ownership" *(condominio)* of the three coastal States.

The Chamber noted that El Salvador approved strongly of the condominium concept, and held that that status not only prevailed but also could not be changed without its consent. Honduras opposed the condominium idea and accordingly called in question the correctness of that part of the 1917 Judgement, whilst also relying on the fact that it had not been a party to the case and so could not be bound by the decision. Nicaragua was, and had consistently been, opposed to the condominium solution.

Honduras also argued against the condominium on the ground that condominia could only be established by agreement. It was doubtless right in claiming that condominia, in the sense of arrangements for the common government of territory, had ordinarily been created by treaty. But what the Central American Court had had in mind was a joint sovereignty arising as a juridical consequence of the 1821 succession. State succession was one of the ways in which territorial sovereignty had passed from one State to another and there seemed to be no reason in principle why a succession should not have created a joint sovereignty where a single and undivided maritime area passed to two or more new States. The Chamber thus saw the 1917 Judgement as using the term condominium to describe what it regarded as the joint inheritance by three States of waters which had belonged to a single State and in which there had been no maritime administrative boundaries in 1821 or indeed at the end of the Federal Republic of Central America in 1839.

Thus the *ratio decidendi* of the Judgement appeared to be that there had, at the time of independence, been no delimitation between the three countries; and the waters of the Gulf had remained undivided and in a state of community which entailed a condominium or co-ownership. Further the existence of a community had been evidenced by continued and peaceful use of the waters by all the riparian States after independence.

As regards the status of the 1917 Judgement, the Chamber observed that although the Court's jurisdiction had been contested by Nicaragua, which had also protested the Judgement, it had nevertheless been a valid decision of a competent court. Honduras, which, on learning of the proceedings before the Court, had formally protested to El Salvador that it did not recognize the status of co-ownership in the waters of the Gulf, had, in the present case, relied on the principle that a decision in a judgment or an arbitral award could only be opposed to the parties. Nicaragua, a party to the 1917 case, was an intervener but not a Party in the case before the Chamber. It therefore did not appear that the Chamber was required to pronounce upon the question whether the 1917 Judgement was *res judicata* between the States parties to it, only one of which was a Party to the present proceedings, a question which was not helpful in a case raising a question of the joint ownership of three coastal States. The Chamber had to make up its own mind on the status of the waters of the Gulf, taking such account of the 1917 decision as it appeared to the Chamber to merit.

The opinion of the Chamber on the régime of the historic waters of the Gulf paralleled the opinion expressed in the 1917 Judgement. The Chamber found that, reserving the question of the 1900 Honduras/Nicaragua delimitation, the Gulf waters, other than the 3-mile maritime belt, were historic waters and subject to a joint sovereignty of the three coastal States, basing itself on the following reasons. As to the historic character of the Gulf waters, there were the consistent claims of the three coastal States and the absence of protest from other States. As to the character of rights in the waters of the Gulf, these had been waters of a single-State bay during the greater part of their known history and had not been divided or apportioned between the different administrative units which became the three coastal States. There had been no attempt to divide and delimit the waters according to the principle of *uti possidetis juris*, this being a fundamental difference between the land areas and the maritime area. The delimitation effected between Nicaragua and Honduras in 1900, which had substantially been an application of the method of equidistance, gave no clue that it had been in any way inspired by the application of the *uti possidetis juris*. A joint succession of the three States to the maritime area therefore seemed to be the logical outcome of the principle of *uti possidetis juris* itself.

The Chamber noted that Honduras, whilst arguing against the condominium, did not consider it sufficient simply to reject it, but proposed an alternative idea, that of "community of interests" or of "interest". That there was a community of interests of the three coastal States of the Gulf was not open to doubt, but it seemed odd to postulate such a community as an argument against a condominium, which was almost an ideal embodiment of the community of interest requirements of equality of user, common legal rights and the "exclusion of any preferential privilege". The essential feature of the "community of interests" existing, according to Honduras, in respect of the waters of the Gulf, and which distinguished it from the *condominio* referred to by the Central American Court or the condominium asserted by El Salvador, was that the "community of interests" did not merely permit of a delimitation but necessitated it.

El Salvador for its part was not suggesting that the waters subject to joint sovereignty could not be divided, if there was agreement to do so. What it maintained was that a decision on the status of the waters was an essential prerequisite to the process of delimitation. Moreover the geographical situation of the Gulf was such that mere delimitation without agreement on questions of passage and access would leave many practical problems unsolved.

The Chamber noted that the normal geographical closing line of the bay would be the line Punta Amapala to Punta Cosigüina; it rejected a thesis elaborated by El Salvador of an "inner gulf" and an "outer gulf", based on a reference in the 1917 Judgement to an inner closing line, there being nothing in that Judgement to support the suggestion that Honduran legal interests in the Gulf waters were limited to the area inside the inner line. Recalling that there had been considerable argument between the Parties about whether the closing line of the Gulf was also a baseline, the Chamber accepted the definition of it as the ocean limit of the Gulf, which however had to be the baseline for whatever régime lay beyond it, which was necessarily different from that of the Gulf.

As to the legal status of the waters inside the Gulf closing line other than the 3-mile maritime belts, the Chamber considered whether or not they were "internal waters"; noting that rights of passage through them had to be available to vessels of third States seeking access to a port in any of the three coastal States, it observed that it might be sensible to regard those waters, in so far as they were the subject of the condominium or co-ownership, as *sui generis*. The essential juridical status of those waters was however the same as that of internal waters, since they were claimed *à titre de souverain* and were not territorial sea.

With regard to the 1900 Honduran/Nicaraguan delimitation line, the Chamber found, from the conduct of El Salvador, that the existence of the delimitation had been accepted by it in the terms indicated in the 1917 Judgement.

In connection with any delimitation of the waters of the Gulf, the Chamber found that the existence of joint sovereignty in all the waters subject to a condominium other than those subject to the treaty or customary delimitations meant that Honduras had existing legal rights (not merely an interest) in the Gulf waters up to the bay closing line, subject of course to the equivalent rights of El Salvador and Nicaragua.

Regarding the question of the waters outside the Gulf, the Chamber observed that it involved entirely new concepts of law unthought of in 1917, in particular the continental shelf and the exclusive economic zone. There was also a prior question about territorial sea. The littoral maritime belts of 1 marine league along the coastlines of the Gulf were not truly territorial seas in the sense of the modern law of the sea. For a territorial sea normally had beyond it the continental shelf, and either waters of the high seas or an exclusive economic zone and the maritime belts within the Gulf might not have outside them any of those areas. The maritime belts might properly be regarded as the internal waters of the coastal State, even though subject, as indeed were all the waters of the Gulf, to rights of innocent passage.

The Chamber therefore found that there was a territorial sea proper seawards of the closing line of the Gulf and, since there was a condominium of the waters of the Gulf, there was a tripartite presence at the closing line and Honduras was not locked out from rights in respect of the ocean waters outside the bay. It was only seaward of the closing line that modern territorial seas could exist, since otherwise the Gulf waters could not be waters of an historic bay, which the Parties and the intervening State agreed to be the legal position. And if the waters internal to that bay were subject to a threefold joint sovereignty, it was the *three* coastal States that were entitled to territorial sea outside the bay.

As for the legal régime of the waters, sea-bed and subsoil off the closing line of the Gulf, the Chamber first observed that the problem had to be confined to the area off the baseline but excluding a 3-mile, or 1-marine-league, strip of it at either extremity, corresponding to the existing maritime belts of El Salvador and Nicaragua respectively. At the time of the Central American Court's decision the waters outside the remainder of the baseline had been high seas. Nevertheless the modern law of the sea had added territorial sea extending from the baseline, had recognized continental shelf as extending beyond the territorial sea and belonging *ipso jure* to the coastal State, and had conferred a right on the coastal State to claim an exclusive economic zone extending up to 200 miles from the baseline of the territorial sea.

Since the legal situation on the landward side of the closing line was one of joint sovereignty, it followed that all three of the joint sovereigns had to be entitled outside the closing line to territorial sea, continental shelf and exclusive economic zone. Whether that situation ought to remain in being or be replaced by a division and delimitation into three separate zones was, as inside the Gulf also, a matter for the three States to decide. Any such delimitation of maritime areas would fall to be effected by agreement on the basis of international law.

XII. Effect of Judgment for the intervening State (paras. 421-424)

Turning to the question of the effect of its Judgment for the intervening State, the Chamber observed that the terms in which intervention was granted were that Nicaragua would not become party to the proceedings. Accordingly the binding force of the Judgment for the Parties, as contemplated by Article 59 of the Statute of the Court, did not extend to Nicaragua as intervener.

In its Application for permission to intervene, Nicaragua had stated that it "intends to subject itself to the binding effect of the decision", but from the written statement submitted by Nicaragua it was clear that

Nicaragua did not now regard itself as obligated to treat the Judgment as binding upon it. With regard to the effect, if any, of the statement in Nicaragua's Application, the Chamber noted that its Judgment of 13 September 1990 emphasized the need, if an intervener was to become a party, for the consent of the existing parties to the case; it observed that if an intervener became a party, and was thus bound by the judgment, it became entitled equally to assert the binding force of the judgment against the other parties. Noting that neither Party had given any indication of consent to Nicaragua's being recognized to have any status enabling it to rely on the Judgment, the Chamber concluded that in the circumstances of the case the Judgment was not *res judicata* for Nicaragua.

Operative paragraphs (paras. 425-432)

> "425. For the reasons set out in the present Judgment, in particular paragraphs 68 to 103 thereof,
>
> THE CHAMBER,
>
> Unanimously,
>
> *Decides* that the boundary line between the Republic of El Salvador and the Republic of Honduras in the first sector of their common frontier not described in Article 16 of the General Treaty of Peace signed by the Parties on 30 October 1980, is as follows:
>
> From the international tripoint known as El Trifinio on the summit of the Cerro Montecristo (point A on Map No. I annexed; co-ordinates: 14° 25′ 10″ N, 89° 21′ 20″ W), the boundary runs in a generally easterly direction along the watershed between the rivers Frio or Sesecapa and Del Rosario as far as the junction of this watershed with the watershed of the basin of the *quebrada* de Pomola (point B on Map No. I annexed; co-ordinates: 14° 25′ 05″ N, 89° 20′ 41″ W); thereafter in a north-easterly direction along the watershed of the basin of the *quebrada* de Pomola until the junction of this watershed with the watershed between the *quebrada* de Cipresales and the *quebrada* del Cedrón, Peña Dorada and Pomola proper (point C on Map No. I annexed; co-ordinates: 14° 25′ 09″ N, 89° 20′ 30″ W); from that point, along the last-named watershed as far as the intersection of the centre-lines of the *quebradas* of Cipresales and Pomola (point D on Map No. I annexed; co-ordinates: 14° 24′ 42″ N, 89° 18′ 19″ W); thereafter, downstream along the centre-line of the *quebrada* de Pomola, until the point on that centre-line which is closest to the boundary marker of Pomola at El Talquezalar; and from that point in a straight line as far as that marker (point E on Map No. I annexed; co-ordinates: 14° 24′ 51″ N, 89° 17′ 54″ W); from there in a straight line in a south-easterly direction to the boundary marker of the Cerro Piedra Menuda (point F on Map No. I annexed; co-ordinates: 14° 24′ 02″ N, 89° 16′ 40″ W), and thence in a straight line to the boundary marker of the Cerro Zapotal (point G on Map

No. I annexed; co-ordinates: 14° 23' 26" N, 89° 14' 43" W); for the purposes of illustration, the line is indicated on Map No. I annexed.

426. For the reasons set out in the present Judgment, in particular paragraphs 104 to 127 thereof,

THE CHAMBER,

Unanimously,

Decides that the boundary line between the Republic of El Salvador and the Republic of Honduras in the second sector of their common frontier not described in Article 16 of the General Treaty of Peace signed by the Parties on 30 October 1980, is as follows:

From the Peña de Cayaguanca (Point A on Map No. II annexed; co-ordinates: 14° 21' 54" N, 89° 10' 11" W), the boundary runs in a straight line somewhat south of east to the Loma de Los Encinos (point B on Map No. II annexed; co-ordinates: 14° 21' 08" N, 89° 08' 54" W), and from there in a straight line to the hill known as El Burro or Piedra Rajada (point C on Map No. II annexed; co-ordinates: 14° 22' 46" N, 89° 07' 32" W); from there the boundary runs in a straight line to the head of the *quebrada* Copantillo, and follows the middle of the *quebrada* Copantillo downstream to its confluence with the river Sumpul (point D on Map No. II annexed; co-ordinates: 14° 24' 12" N, 89° 06' 07" W), and then follows the middle of the river Sumpul downstream to its confluence with the *quebrada* Chiquita or Oscura (point E on Map No. II annexed; co-ordinates: 14° 20' 25" N, 89° 04' 57" W); for the purposes of illustration, the line is indicated on Map No. II annexed.

427. For the reasons set out in the present Judgment, in particular paragraphs 128 to 185 thereof,

THE CHAMBER,

Unanimously,

Decides that the boundary line between the Republic of El Salvador and the Republic of Honduras in the third sector of their common frontier not described in Article 16 of the General Treaty of Peace signed by the Parties on 30 October 1980, is as follows:

From the Pacacio boundary marker (point A on Map No. III annexed; co-ordinates: 14° 06' 28" N, 88° 49' 18" W) along the rio Pacacio upstream to a point (point B on Map No. III annexed; co-ordinates: 14° 06' 38" N, 88° 48' 47" W), west of the Cerro Tecolate or Los Tecolates; from there up the *quebrada* to the crest of the Cerro Tecolate or Los Tecolates (point C on Map No. III annexed; co-ordinates: 14° 06' 33" N, 88° 48' 18" W), and along the watershed of this hill as far as a ridge approximately 1 kilometre to the north-east (point D on Map No. III annexed; co-ordinates: 14° 06' 48" N, 88° 47′ 52″ W); from there in an easterly direction to the neighbouring hill above the source of the Torrente La Puerta (point E on Map No. III annexed; co-ordinates: 14° 06′ 48″ N, 88° 47′ 31″ W) and down that stream to where it meets the river Gualsinga (point F on Map No. III annexed; co-ordinates: 14° 06′ 19″ N, 88° 47′ 01″ W); from there the boundary runs along the middle of the river Gualsinga downstream to its confluence with the river Sazalapa (point G on Map No. III annexed; co-ordinates: 14° 06′ 12″ N, 88° 46′ 58″ W), and thence upstream along the middle of the river Sazalapa to the confluence of the *quebrada* Llano Negro with that river (point H on Map No. III annexed; co-ordinates: 14° 07′ 11″ N, 88° 44′ 21″ W); from there south-eastwards to the top of the hill (point I on Map No. III annexed; co-ordinates: 14° 07′ 01″ N, 88° 44′ 07″ W), and thence south-eastwards to the crest of the hill marked on the map as a spot height of 1,017 metres (point J on Map No. III annexed; co-ordinates: 14° 06′ 45″ N, 88° 43′ 45″ W); from there the boundary, inclining still more to the south, runs through the triangulation point known as La Cañada (point K on Map No. III annexed; co-ordinates: 14° 06′ 00″ N, 88° 43′ 52″ W) to the ridge joining the hills indicated on the map as Cerro El Caracol and Cerro El Sapo (through point L on Map No. III annexed; co-ordinates: 14° 05′ 23″ N, 88° 43′ 47″ W) and from there to the feature marked on the map as the Portillo El Chupa Miel (point M on Map No. III annexed; co-ordinates: 14° 04′ 35″ N, 88° 44′ 10″ W); from there, following the ridge, to the Cerro El Cajete (point N on Map No. III annexed; co-ordinates: 14° 03′ 55″ N, 88° 44′ 20″ W), and thence to the point where the present-day road from Arcatao to Nombre de Jesús passes between the Cerro El Ocotillo and the Cerro Lagunetas (point O on Map No. III annexed; co-ordinates: 14° 03′ 18″ N, 88° 44′ 16″ W); from there south-eastwards to the crest of a hill marked on the map as a spot height of 848 metres (point P on Map No. III annexed; co-ordinates: 14° 02′ 58″ N, 88° 43′ 56″ W); from there slightly south of eastwards to a *quebrada* and down the bed of the *quebrada* to its junction with the Gualcuquín river (point Q on Map No. III annexed; co-ordinates: 14° 02′ 42″ N, 88° 42′ 34″ W); the boundary then follows the middle of the Gualcuquín river downstream to the Poza del Cajón (point R on Map No. III annexed; co-ordinates: 14° 01′ 28″ N, 88° 41′ 10″ W); for purposes of illustration, this line is shown on Map No. III annexed.

428. For the reasons set out in the present Judgment, in particular paragraphs 186 to 267 thereof,

THE CHAMBER,

By four votes to one,

Decides that the boundary line between the Republic of El Salvador and the Republic of Honduras in the fourth sector of their common frontier not described in Article 16 of the General Treaty of Peace signed by the Parties on 30 October 1980, is as follows:

From the source of the Orilla stream (point A on Map No. IV annexed; co-ordinates: 13° 53′ 46″ N, 88° 20′ 36″ W) the boundary runs through the pass of El Jobo to the source of the Cueva Hedionda stream (point B on Map No. IV annexed; co-ordinates: 13° 53′ 39″ N, 88° 20′ 20″ W), and thence down the middle of that stream to its confluence with the river Las Cañas (point C on Map No. IV annexed; co-ordinates: 13° 53′ 19″ N, 88° 19′ 00″ W), and thence following the middle of the river upstream as far as a point (point D on Map No. IV annexed; co-ordinates: 13° 56′ 14″ N, 88° 15′ 33″ W) near the settlement of Las Piletas; from there eastwards over a col indicated as point E on Map No. IV annexed (co-ordinates: 13° 56′ 19″ N, 88° 14′ 12″ W), to a hill indicated as point F on Map No. IV annexed (co-ordinates: 13° 56′ 11″ N, 88° 13′ 40″ W), and then north-eastwards to a point on the river Negro or Pichigual (marked G on Map No. IV annexed; co-ordinates: 13° 57′ 12″ N, 88° 13′ 11″ W); downstream along the middle of the river Negro or Pichigual to its confluence with the river Negro-Quiagara (point H on Map No. IV annexed; co-ordinates: 13° 59′ 37″ N, 88° 14′ 18″ W); then upstream along the middle of the river Negro-Quiagara as far as the Las Pilas boundary marker (point I on Map No. IV annexed; co-ordinates: 14° 00′ 02″ N, 88° 06′ 29″ W), and from there in a straight line to the Malpaso de Similatón (point J on Map No. IV annexed; co-ordinates: 13° 59′ 28″ N, 88° 04′ 22″ W); for the purposes of illustration, the line is indicated on Map No. IV annexed.

IN FAVOUR: *Judge* Sette-Camara, *President of the Chamber*; *President* Sir Robert Jennings; *Vice-President* Oda; *Judge* ad hoc Torres Bernárdez;

AGAINST: *Judge* ad hoc Valticos.

429. For the reasons set out in the present Judgment, in particular paragraphs 268 to 305 thereof,

THE CHAMBER,

Unanimously,

Decides that the boundary line between the Republic of El Salvador and the Republic of Honduras in the fifth sector of their common frontier not described in Article 16 of the General Treaty of Peace signed by the Parties on 30 October 1980, is as follows:

From the confluence with the river Torola of the stream identified in the General Treaty of Peace as the *quebrada* de Mansupucagua (point A on Map No. V annexed; co-ordinates: 13° 53′ 59″ N, 87° 54′ 30″ W) the boundary runs upstream along the middle of the river Torola as far as its confluence with a stream known as the *quebrada* del Arenal or *quebrada* de Aceituno (point B on Map No. V annexed; co-ordinates: 13° 53′ 50″ N, 87° 50′ 40″ W); thence up the course of that stream as far as a point at or near its source (point C on Map No. V annexed; co-ordinates: 13° 54′ 30″ N, 87° 50′ 20″ W), and thence in a straight line somewhat north of east to a hill some 1,100 metres high (point D on Map No. V annexed; co-ordinates: 13° 55′ 03″ N, 87° 49′ 50″ W); thence in a straight line to a hill near the river Unire (point E on Map No. V annexed; co-ordinates: 13° 55′ 16″ N, 87° 48′ 20″ W), and thence to the nearest point on the river Unire; downstream along the middle of that river to the point known as the Paso de Unire (point F on Map No. V annexed; co-ordinates: 13° 52′ 07″ N, 87° 46′ 01″ W); for the purposes of illustration, the line is indicated on Map No. V annexed.

430. For the reasons set out in the present Judgment, in particular paragraphs 306 to 322 thereof,

THE CHAMBER,

Unanimously,

Decides that the boundary line between the Republic of El Salvador and the Republic of Honduras in the sixth sector of their common frontier not described in Article 16 of the General Treaty of Peace signed by the Parties on 30 October 1980, is as follows:

From the point on the river Goascorán known as Los Amates (point A on Map No. VI annexed; co-ordinates: 13° 26′ 28″ N, 87° 43′ 25″ W), the boundary follows the course of the river downstream, in the middle of the bed, to the point where it emerges in the waters of the Bahia La Unión, Gulf of Fonseca, passing to the north-west of the Islas Ramaditas, the co-ordinates of the endpoint in the bay being 13° 24′ 26″ N, 87° 49′ 05″ W; for the purposes of illustration, the line is indicated on Map No. VI annexed.

431. For the reasons set out in the present Judgment, in particular paragraphs 323 to 368 thereof,

THE CHAMBER,

(1) By four votes to one,

Decides that the Parties, by requesting the Chamber, in Article 2, paragraph 2, of the Special Agreement of 24 May 1986, 'to determine the legal situation of the islands . . .', have conferred upon the Chamber jurisdiction to determine, as between the Parties, the legal situation of all the islands of the Gulf of Fonseca; but that such jurisdiction should only be exercised in respect of those islands which have been shown to be the subject of a dispute;

IN FAVOUR: *Judge* Sette-Camara, *President of the Chamber*; *President* Sir Robert Jennings; *Vice-President* Oda; *Judge* ad hoc Valticos;

AGAINST: *Judge* ad hoc Torres Bernárdez.

(2) *Decides* that the islands shown to be in dispute between the Parties are:

(i) by four votes to one, El Tigre;

IN FAVOUR: *Judge* Sette-Camara, *President of the Chamber*; *President* Sir Robert Jennings; *Vice-President* Oda; *Judge* ad hoc Valticos;

AGAINST: *Judge* ad hoc Torres Bernárdez;

(ii) unanimously, Meanguera and Meanguerita.

(3) Unanimously,

Decides that the island of El Tigre is part of the sovereign territory of the Republic of Honduras.

(4) Unanimously,

Decides that the island of Meanguera is part of the sovereign territory of the Republic of El Salvador.

(5) By four votes to one,

Decides that the island of Meanguerita is part of the sovereign territory of the Republic of El Salvador;

IN FAVOUR: *Judge* Sette-Camara, *President of the Chamber*; *President* Sir Robert Jennings; *Vice-President* Oda; *Judge* ad hoc Valticos;

AGAINST: *Judge* ad hoc Torres Bernárdez.

432. For the reasons set out in the present Judgment, in particular paragraphs 369 to 420 thereof,

THE CHAMBER,

(1) By four votes to one,

Decides that the legal situation of the waters of the Gulf of Fonseca is as follows: the Gulf of Fonseca is an historic bay the waters whereof, having previously to 1821 been under the single control of Spain, and from 1821 to 1839 of the Federal Republic of Central America, were thereafter succeeded to and held in sovereignty by the Republic of El Salvador, the Republic of Honduras, and the Republic of Nicaragua, jointly, and continue to be so held, as defined in the present Judgment, but excluding a belt, as at present established, extending 3 miles (1 marine league) from the littoral of each of the three States, such belt being under the exclusive sovereignty of the coastal State, and subject to the delimitation between Honduras and Nicaragua effected in June 1900, and to the existing rights of innocent passage through the 3-mile belt and the waters held in sovereignty jointly; the waters at the central portion of the closing line of the Gulf, that is to say, between a point on that line 3 miles (1 marine league) from Punta Amapala and a point on that line 3 miles (1 marine league) from Punta Cosigüina, are subject to the joint entitlement of all three States of the Gulf unless and until a delimitation of the relevant maritime area be effected;

IN FAVOUR: *Judge* Sette-Camara, *President of the Chamber*; *President* Sir Robert Jennings; *Judge* ad hoc Valticos; *Judge* ad hoc Torres Bernárdez;
AGAINST: *Vice-President* Oda.

(2) By four votes to one,

Decides that the Parties, by requesting the Chamber, in Article 2, paragraph 2, of the Special Agreement of 24 May 1986, "to determine the legal situation of the . . . maritime spaces", have not conferred upon the Chamber jurisdiction to effect any delimitation of those maritime spaces, whether within or outside the Gulf;

IN FAVOUR: *Judge* Sette-Camara, *President of the Chamber*; *President* Sir Robert Jennings; *Vice-President* Oda; *Judge* ad hoc Valticos;
AGAINST: *Judge* ad hoc Torres Bernárdez.

(3) By four votes to one,

Decides that the legal situation of the waters outside the Gulf is that, the Gulf of Fonseca being an historic bay with three coastal States, the closing line of the Gulf constitutes the baseline of the territorial sea; the territorial sea, continental shelf and exclusive economic zone of El Salvador and those of Nicaragua off the coasts of those two States are also to be measured outwards from a section of the closing line extending 3 miles (1 marine league) along that line from Punta Amapala (in El Salvador) and 3 miles (1 marine league) from Punta Cosigüina (in Nicaragua) respectively; but entitlement to territorial sea, continental shelf and exclusive economic zone seaward of the central portion of the closing line appertains to the three States of the Gulf, El Salvador, Honduras and Nicaragua; and that any delimitation of the relevant maritime areas is to be effected by agreement on the basis of international law;

IN FAVOUR: *Judge* Sette-Camara, *President of the Chamber*; *President* Sir Robert Jennings; *Judge* ad hoc Valticos; *Judge* ad hoc Torres Bernárdez;
AGAINST: *Vice-President* Oda."

*

Vice-President Oda appended a declaration to the Judgment (*I.C.J. Reports 1992*, pp. 619-620); Judges *ad hoc* Valticos and Torres Bernárdez appended separate opinions (*ibid.*, pp. 621-628 and 629-731); Vice-President Oda appended a dissenting opinion (*ibid.*, pp. 732-761).

II. APPLICATION OF THE STATUTE AND RULES OF COURT

1. Organization of the Court

(a) *Installation of a new judge*

(Statute, Art. 20; Rules, Art. 4)

On 14 June 1993, at the opening of the hearings in the case concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)* the new judge who had been elected to fill the vacancy left by the death in office of another judge made the solemn declaration (see Chap. I, p. 9, above).

(b) *The Presidency*

(Statute, Art. 48; Rules, Arts. 31, 32, 44, 46, 48 and 74, paras. 3 and 4)

The President of the Court made an Order in the case concerning *Passage through the Great Belt (Finland* v. *Denmark)* (see above, p. 174), removing that case from the list. He further made Orders fixing or extending time-limits in the cases concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)* (see above, pp. 180-181), *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))* (see above, p. 190) and *East Timor (Portugal* v. *Australia)* (see above, p. 170).

(c) *Judges* ad hoc

(Statute, Arts. 20 and 31; Rules, Arts. 4 and 8)

In the case concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark* v. *Norway)* the judge *ad hoc* chosen by Denmark made his solemn declaration at the opening of the hearings in the case. At the occasion the President of the Court pointed out that the judge *ad hoc* had also participated in the same capacity in another case, but that it is established in the practice of the Court, that a judge *ad hoc* makes such a declaration in each case in which he sits (public sitting of 11 February 1993).

The two judges *ad hoc* chosen in the case concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)* also made the solemn declaration at the opening of the hearings in that case (see above, p. 168).

In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))*, Bosnia and Herzegovina also exercised the power to choose a judge *ad hoc* (see above, p. 190).

2. Contentious Procedure

(a) *Institution of proceedings*

(i) *Application instituting proceedings*

(Statute, Art. 40; Rules, Art. 38)

Proceedings in the cases concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)* and *Application of the Convention on* *the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))* were instituted by an Application. Another Application instituting proceedings, against Czechoslovakia, was presented by Hungary, which, before detailing its case, invited Czechoslovakia to accept the jurisdiction of the Court. In all cases the Registrar proceeded with the requisite communications, in accordance with the provisions of the Statute and the Rules of Court. In the last-mentioned case the Court applied for the first time paragraph 5 of Article 38 of the Rules of Court, which came into force in 1978, when the Court adopted new Rules.

(ii) *Special Agreement*

(Statute, Art. 40; Rules, Art. 39)

In the case concerning the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, proceedings were instituted by the joint notification of a Special Agreement. The filing of the Special Agreement was notified to the Secretary-General of the United Nations and the States entitled to appear before the Court.

(b) *Fixing of time-limits*

(Statute, Art. 48; Rules, Arts. 31, 44 and 48)

The Court fixed time-limits in the case concerning *Certain Phosphate Lands in Nauru (Nauru* v. *Australia)* (see above, p. 166). (For the fixing and extension of time-limits by the President of the Court, see above, p. 242, under 1 *(b)*.)

(c) *Filing of pleadings*

In the cases concerning the *Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America)* (Preliminary Objections) (see above, p. 165), *Certain Phosphate Lands in Nauru (Nauru* v. *Australia)* (see above, p. 166), *Territorial Dispute (Libyan Arab Jamahiriya/Chad)* (see above, p. 168), *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* (Questions of Jurisdiction and Admissibility) (see above, p. 176) and *Oil Platforms (Islamic Republic of Iran* v. *United States of America)* (see above, p. 180) pleadings were filed by the Parties within the prescribed time-limits.

(d) *States parties to conventions the construction of which is in question*

(Statute, Art. 63; Rules, Art. 43)

In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))*, the Registrar addressed a letter to the States parties to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, drawing to their notice that in its Application the Applicant had claimed that the Respondent had breached legal obligations towards the Applicant under several Articles of that Convention. The letter continued:

> "I would add that this notification in no way prejudges any question of the possible application of Article 63 of the Statute, in relation to the Genocide Convention or any other convention the construction of which may be in question, which the Court may later be called upon to determine in this case."

(e) *Presentation of new documents*

(Statute, Art. 52; Rules, Art. 56)

In the case concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark* v. *Norway)*, supplemental documents were filed by both Parties after the closure of the written proceedings. The other Party was consulted in each case and indicated that it had no objection to the production of the documents.

In the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* the Chamber decided not to authorize the submission of new documents by one of the Parties, after the other Party had objected to the admission of additional documents.

(f) *Accessibility of pleadings to the public*

(Rules, Art. 53, para. 2)

In the cases concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark* v. *Norway)* and the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*, the Court, after ascertaining the views of the Parties, decided that the pleadings should be made accessible to the public as from the opening of the oral proceedings.

(g) *Oral proceedings*

(Statute, Arts. 43, para. 5, 45 and 46; Rules, Arts. 54, 58 and 61, para. 1)

The oral proceedings in the cases concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark* v. *Norway)* and the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)* consisted each of two rounds of arguments in which both Parties participated.

At the opening of the hearings on the request for indication of provisional measures in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))* the President of the Court, referring to Article 61, paragraph 1, of the Rules of Court, and in view of the seeming position as to the prima facie jurisdiction, invited the Parties to address themselves particularly to the acts, and threatened acts, described in the Application and alleged to involve breaches of the Genocide Convention. The hearings consisted of two rounds of arguments.

(h) *Evidence*

(i) *Obtaining of evidence* in situ *and enquiry/expert opinion*

(Rules, Arts. 66 and 67)

In its Judgment in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*, the Chamber announced its decision that it had not considered it necessary to exercise its functions with regard to the obtaining of evidence *in situ* or to exercise its powers to arrange for an enquiry or expert opinion in the case.

(ii) *Showing and projection of maps*

In each of the cases concerning the *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark* v. *Norway)* and the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*, both Parties, at the hearings, showed or projected enlargements of maps and sketch-maps already included in the documentation before the Court. The Members of the Court were provided with reproductions of the maps shown or with references to the pertinent volumes of written pleadings, in order to facilitate their following the argument.

(i) *Questions put by judges*

(Statute, Arts. 45 and 49; Rules, Arts. 61 and 72)

At the hearings in the case concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark* v. *Norway)*, the Vice-President of the Court put questions to both Parties (see above, p. 152). The replies were given in writing, upon and after the closure of the hearings.

At the end of the hearings on the request for the indication of provisional measures made by the Applicant in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))* a Member of the Court put a question also to both Parties (see above, p. 184).

In the case concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)* a Member of the Court put a question to one of the Parties (see above, p. 168). The Reply was given in writing while the hearings were still in progress; it was communicated to the other Party for comments.

(j) *Final submissions*

(Rules, Art. 60, para. 2)

At the conclusion of the oral proceedings in the cases concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark* v. *Norway)* and the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*, the Agents of both Parties presented the final submissions of their Governments, which were also submitted in writing.

(k) *Provisional measures*

(Statute, Art. 41; Rules, Arts. 73 and 74)

In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))*, the Applicant made a request for the indication of provisional measures on 30 March 1993, the same day on which the Application was filed (see above, p. 183).

In its request the Applicant referred to Article 75, paragraph 1, of the Rules of Court and requested that the Court grant *proprio motu* any or all of the provisional measures requested before any oral proceedings were held. The Court did not consider however that where a specific request had been made by a party for the indication of provisional measures, as in the proceedings before it, there could be any question of the Court exercising its *proprio motu* powers under the above-mentioned provision, which powers did not, in the Court's view, and in the actual circumstances, extend to indicating measures without affording both Parties the opportunity of being heard.

The Court, on 1 and 2 April 1993, held hearings on the request at which both Parties presented oral observations (see above, p. 184). With regard to a request by the Respondent for postponement of those hearings the Court decided that, in view of the urgency attaching under Article 74 of the Rules of Court to a request for provisional measures, it was unable to accede to that request. The Court made an Order on the request on 8 April 1993 (see above, p. 184).

On 27 July 1993 Bosnia and Herzegovina made a second request for the indication of provisional measures. It is the first time that a second request for provisional measures has been made by one of the parties in proceedings before the Court.

(l) *Discontinuance*

(Rules, Art. 89)

In the case concerning *Passage through the Great Belt (Finland* v. *Denmark)*, the Agent of the Applicant gave notice of the discontinuance of the case by his Government. After the other Party, by a letter dated one day later than the letter of the Agent of the Applicant, had stated that it had no objection, the President of the Court made an Order recording the discontinuance and directing the removal of the case from the list (see above, p. 175).

(m) *Separate opinions and declarations*

(Statute, Art. 57; Rules, Art. 95, para. 2)

In the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*, the Vice-President appended a declaration and a dissenting opinion to the Judgment of the Chamber; the two judges *ad hoc* appended separate opinions (see above, p. 241).

A declaration was appended by one of the Members of the Court to the Order on the request for the indication of provisional measures in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))* (see above, p. 190).

In the case concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark* v. *Norway)*, the Vice-President and three judges appended declarations to the Judgment of the Court; the Vice-President and four other judges appended separate opinions and the judge *ad hoc* a dissenting opinion (see above, p. 163).

(n) *Reading of the decision of the Court or of a Chamber*

(i) *Judgments*

(Statute, Art. 58; Rules, Arts. 93, 94 and 95)

The Judgment of the Chamber in the case concering the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* was read at a public sitting; in view of the length of the text, the President of the Chamber omitted or summarized certain passages.

The President of the Court read the Judgment of the Court in the case concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark* v. *Norway)* in the same abridged form.

(ii) *Orders*

The Order on the request for the indication of provisional measures in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))* was also read at a public sitting, by the President of the Court.

(o) *Binding force of Judgment*

(Statute, Art. 59)

In the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* the Chamber, in its Judgment, observed that the terms on which intervention was granted were that Nicaragua would not become party to the proceedings. Accordingly the binding force of the Judgment for the Parties, as contemplated by Article 59 of the Statute of the Court did not extend to Nicaragua as intervener. The Chamber further observed that, in its Application for permission to intervene, Nicaragua had stated that it "intends to subject itself to the binding effect of the decision", but that from the written statement submitted by Nicaragua it was clear that Nicaragua did not then regard itself as obligated to treat the Judgment as binding upon it. With regard to the effect, if any, of the statement in Nicaragua's Application, the Chamber noted that its Judgment of 13 September 1990 emphasized the need, if an intervener is to become a party, for the consent of the existing parties to the case; it observed that if an intervener becomes a party, and is thus bound by the judgment, it becomes entitled equally to assert the binding force of the judgment against the other parties. Noting that neither Party had given any indication of consent to Nicaragua's being recognized to have any status enabling it to rely on the Judgment, the Chamber concluded that in the circumstances of the case the Judgment was not *res judicata* for Nicaragua.

III. REPORT AND REPRESENTATION OF THE COURT AT THE GENERAL ASSEMBLY

On the occasion of the forty-seventh session of the General Assembly, the Court submitted a report on its activities covering the period from 1 August 1991 to 31 July 1992 (A/47/4). This report was divided into seven parts, relating to the composition, jurisdiction and judicial work of the Court, the role of the Court, administrative questions, and the Court's publications and documents. The General Assembly took note of the report at its 43rd plenary meeting held on 21 October 1992.

On that occasion the President, who, with the Registrar, represented the Court at the forty-seventh session of the General Assembly, addressed that body on the role and functioning of the Court. The text of that address is reproduced in the Appendix to this Chapter (see below, pp. 249-253). Those Members of the Court who were present in New York also attended part of the forty-seventh session of the General Assembly.

A report dealing with the period 1 August 1992 to 31 July 1993 will be submitted on the occasion of the forty-eighth session of the General Assembly (A/48/4).

IV. APPLICATIONS FROM PRIVATE PERSONS

Private persons frequently apply to the Court for the purpose of obtaining a decision on matters at issue between them and the authorities of their own or of another country. Between 1 August 1992 and 31 July 1993 the Court received approximately 1,200 requests of this kind. The writers were informed that, according to Article 34 of the Statute, "only States may be parties in cases before the Court".

APPENDIX

THE ROLE AND FUNCTIONING OF THE COURT

At the 43rd meeting of the forty-seventh session of the General Assembly, held on 21 October 1992 (see above, p. 248), the President of the Court, Sir Robert Jennings, gave the following address:

"I am most grateful for this opportunity once more to address the General Assembly on the occasion of the Annual Report of the International Court of Justice. I do not intend to reiterate anything that is already before the Assembly in the pages of the printed Report. But I should like to make some brief remarks by way of comment on what has been happening at The Hague during this last year – one of the first years of the United Nations Decade of International Law.

I might begin by welcoming the continuing enlargement of the compulsory jurisdiction of the Court, with significant additions to the number of optional clause declarations, and further withdrawals of reservations to the jurisdictional clauses of treaties. Movement is steady; but it is progress, and not the persistent decline which marked an earlier period.

The establishment in 1989 by the Secretary-General of a Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, to which more than 30 States have contributed over half a million dollars, has become an important device for facilitating access to the Court. Thus in two cases developing States have already benefited from the Trust Fund.

The growth in the jurisdictional reach of the Court continues to be matched by the growth in its case load. Last year I was able to report to you that we had a longer case list than at any previous stage in the existence of the World Court, including indeed the period during which it functioned in the form of the Permanent Court of International Justice. Since then we have been getting on with the task of disposing of those outstanding cases; and learning much from the unusual experience of dealing with several of them at the same time. I should, I think, add one important item concerning the contentious jurisdiction; for on 11 September, after this Report was compiled, a Chamber gave Judgment in the *Land, Island and Maritime Frontier Dispute* between El Salvador and Honduras, Nicaragua intervening. This, in the extent and variety of questions to be resolved was the largest case ever submitted to The Hague. The sheer extent of the judicial effort required to bring this dangerous dispute, with its long history and vast array of documentation and argument, finally to Judgment, is an accomplishment in which the Court has a right to feel particular satisfaction.

In the course of dealing with the new volume and variety of work some lessons have been learned about the different ways in which the Court, and indeed the procedures of the Court, can usefully assist Governments in the solution of their problems. Let me tell you about this experience under four headings.

In domestic courts it is quite usual for settlements to be made out of court, ordinarily at some stage before the case comes on for hearing. In such cases the institution of proceedings was not necessarily a waste of time; on the contrary, it might well have supplied the impulse to try to resolve the dispute by a negotiated settlement. Some similar experience is not unknown to the International Court of Justice. There are, of course, situations in which a case may be withdrawn in response to a change in the relevant political relationships. In such instances the dispute, if it has been resolved, is resolved for reasons that may be independent of the pendency of the case. But there are other situations in which it is, I think, possible to see that the very pendency of the proceedings operated as a factor to encourage or promote the ultimate settlement. Let me give an example.

Recently a settlement was achieved by Finland and Denmark in a case between them concerning rights of passage through the Great Belt. The settlement was reached just within days, almost hours, of the moment set for the commencement of the oral proceedings. In an earlier phase of the matter, the Court had itself encouraged the Parties to negotiate a settlement. They duly proceeded to negotiate but failed to agree at that stage. So the litigation continued its course. Extensive written pleadings were submitted on the substantive issues of fact and law. However, the Parties then resumed discussions, and this time succeeded at the last moment. It is a reasonable inference that their participation in the Court's proceedings relating to the production and exchange of full written pleadings, together with the imminence of trial of the action if negotiations did not succeed, helped in some way to generate a momentum which eventually brought the negotiations to a successful head.

There is another, still pending case, where the Court encouraged the trying of negotiations and, accordingly, allowed a period for negotiations before fixing time-limits for written pleadings in the case. The Parties have now together asked for an extension of the time allowed for negotiation.

I mention these recent experiences to show how the Court procedures can sometimes form part of, and be a vector in, diplomatic negotiations. The two processes are, of course, juridically distinct, but in practice they may be employed complementarily, and not necessarily on a basis of mutual exclusivity. It is the constant jurisprudence of the Court that judicial settlement is only an alternative to friendly settlement by the parties themselves. Whenever the Court or its procedures can help in this way, the Court is, in an important sense, still productively at work.

I recently had the privilege of listening to a Judge of the Court of Justice of the European Communities at Luxembourg talking about his work as a Judge. Many of the problems were familiar to any Judge of the International Court of Justice. In some ways the experience of the Hague Court is richer in its variety. But I was struck by one difference between the kind of case that was most common at Luxembourg and rather less so before the Hague Court.

The Luxembourg Court is frequently called upon to adjudge questions of the juridical boundaries between different organs of the European Communities; questions as to whether an organ has or has not acted within the competence conferred upon it by the constituent treaties. These are, of course, typical questions of administrative law within any more or less developed community. It is therefore not at all surprising that such cases are a staple diet of the Court of Justice of the European Communities. By contrast, similar issues arise relatively rarely before the Hague Court; or, indeed, in international law generally. There was of course the famous *Expenses* case, the case concerning the *Admission of a State to Membership in the United Nations* and that over the *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*; these in the early days of the Court. No doubt the relative paucity of such cases before the Court is accounted for to some extent by the difference in the levels of institutional development as between a national or regional community, on the one hand, and the general international community on the other. As the degree of cohesiveness of the international community intensifies, or as its existing apparatus accelerates in its functioning, more issues as to jurisdictional boundaries between international organs may fall for judicial determination. Some such issues were touched upon in the Preliminary Phase of the cases of *Libya* v. *United Kingdom* and *Libya* v. *United States of America* arising out of the aerial incident at Lockerbie.

Such issues could raise the classic problems of constitutional and administrative law; and in the case of the United Nations, these issues can be both fundamental and of the greatest practical importance: the legal relationship between political and legal appreciation; between the Security Council and the Court; and when and to what extent the Court might or should have powers of judicial review of administrative action, and of political decision; in fact, what precisely is meant when the Charter describes the Court as the Principal Judicial Organ of the United Nations.

It would not be right for me, as President of the Court, to attempt in any way to argue these questions or to pre-empt the answers. I only wanted to say that they are not simple, but rather complex questions of basic importance for the legal character of the United

Nations; and it is a gratifying sign of the maturity of the system that they should be expected to be dealt with by the International Court of Justice, one way or another.

This past year has, as I have indicated, been a busy one for the Court. The Report mentions 14 principal items concerning current cases, which were dealt with in one way or another by the Court or a Chamber during this last period. These items include three Judgments, and three Orders embodying decisions of the kind which are made only after full oral proceedings. They do not, however, include any advisory opinions or requests for advisory opinions.

Thinking of the proper sphere of advisory opinions, I want to recall again the wise words of the Secretary-General's Report to the General Assembly last year, in which he said that there are questions 'which seem entirely political', but which 'have a clearly legal component' and which could usefully be referred to the Court for an advisory opinion, if 'for any reason the parties fail to refer the matter to the Court'.

Quite how the competence to move for an advisory opinion might be extended – for instance, the proposal that the Secretary-General himself should in one way or another have such a competence – is an important matter. It is not, I would think, my business as President of the Court to enter into any such debate. But I do wish to leave with this General Assembly my impression that there are many more legal questions, including legal components of major political problems, that could usefully be made the subject of requests for advisory opinions than seems to happen at present. As pointed out in the statement read on my behalf at the Rio Conference in June, the Court is fully equipped to assist in the development of a new law of environment protection by means of its advisory jurisdiction.

Finally, I want to say one word of direct relevance to this Decade of International Law. The Judges of the Court, as you well know Mr. President, are from many different parts of the world, from different forms of civilization, from different cultures, and not least from very different legal systems.

The layman's question is always the same: how do you manage to have a coherent and sensible and useful deliberation in those circumstances? Indeed, how do you manage to decide anything?

The answer is that in practice the problem hardly arises. There is disagreement and argument, of course; as indeed there should be. But it is disagreement within a common understanding of the legal basis of the argument. This is because juridically we all speak one common legal language, called Public International Law. It *is* indeed both a common legal language and a universal system. Our experience in the World Court, and of generations of our predecessors, proves that. Apart from the quality of humanity itself, which we all share, international law is a language which, in our experience, transcends different tongues, cultures, races and religions. And it is because of this that, impressions to the contrary notwithstanding, it is simply not the case that either the size or the composition of the Court makes for delay. As the facts show, the Court can move as quickly as is required.

I wanted to mention this peculiar quality of international law as a common and universal system, because it is one of those tremendously significant and important facts which are not noticed as they should be. And I know that there is no more appropriate forum than this General Assembly in which to emphasize that quality of the system. For there is no other body which gathers up more comprehensively or more authoritatively our particular differences as well as our common humanity. Not surprisingly it is this Assembly which has dedicated a decade to the promotion and service of international law. Let us, therefore, tell more people about its great quality of being a common legal language for all of us, as it is the common property of us all.

CHAPTER VII

PUBLICATIONS OF THE COURT

The publications of the International Court of Justice are published by the Registry (Rules of Court, Art. 26, para. 1 *(i)*, and Art. 71, para. 6; Instructions for the Registry, Arts. 23, 43, 67-69 and 72).

Information about the publications of the present Court and those of its forerunner, the *Permanent Court of International Justice*, is given below[1].

I. GENERAL

1. Series Published by the International Court of Justice

The publications of the Court are at present classified in series as shown hereunder. Their size is 15.6 × 24 cm when they are published in paper covers and 16 × 24.5 cm when published in hard covers.

(a) *Reports of Judgments, Advisory Opinions and Orders*

This series contains the Reports of the decisions of the Court in both the English and the French texts. Each decision is published as soon as given, in an unbound fascicle which is sold separately[2]. To allow for binding, a continuous system of pagination is adopted for all the fascicles of any one year.

In January of each year, an analytical index is published of the previous year's decisions; this also may be purchased separately. A binder is available for those who obtain the separate fascicles and the index at the time of their publication. The collected decisions, with index, for each year may also be obtained ready bound together in one volume.

Forty-four bound volumes have so far been published, the first being the *I.C.J. Reports* for the years 1947 and 1948, which are collected in a single volume. (The *I.C.J. Reports 1965, 1967, 1968, 1977, 1979* and *1983* are not indexed.)

Official citation of the series: *I.C.J. Reports*, with an indication of the year. For a separate fascicle the short title of the case and the nature of the decision should be given, e.g.: *Nottebohm, Preliminary Objection, Judgment, I.C.J. Reports 1953*, p. 111; or *Nottebohm, Order of 15 January 1954, I.C.J. Reports 1954*, p. 7. (See Sec. II, pp. 262-271, below.)

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[1] The documents prepared and distributed by the Registry for information purposes are dealt with in Chapter V, above: see pp. 138-139.

[2] See Chap. V, p. 144, above.

(b) *Pleadings, Oral Arguments, Documents*

Volumes in this series are published after the termination of each case and contain the documentation relating to the case in the original language, that is, in English or in French.

This comprises the document instituting proceedings[1], the written pleadings and their annexes[2], the verbatim record of the oral proceedings[3], any documents submitted to the Court after the closure of the written proceedings, and the correspondence. The Court however decided in 1967 that the annexes to the pleadings would no longer be printed in cases which had been removed from the General List either because the application instituting proceedings disclosed that the other side had not accepted the jurisdiction of the Court or because there had been a settlement or a discontinuance of the case.

Depending upon the length of the documents to be printed, one or more volumes are issued for each case. Thus far 122 volumes have been published. The volumes which appeared up to 31 December 1964 are sold in hard covers whereas subsequent volumes are in paper covers.

Abbreviated reference: *I.C.J. Pleadings*, with the short title of the case, e.g.: *I.C.J. Pleadings, Nottebohm*, Vol. I. (See Sec. III, pp. 276-282, below.)

(c) *Acts and Documents concerning the Organization of the Court*

Five volumes have appeared in this bilingual (English/French) series.

No. 1 is now out of print.

No. 2 contained, in paper covers, the text of the Rules of Court as amended in 1972.

No. 3 contained the texts of the Charter of the United Nations, the Statute and Rules of Court and the Resolution concerning the Internal Judicial Practice of the Court, together with certain documents relating to the Court's privileges and immunities. It was published in 1977, in paper covers.

No. 4 contains the same documents as *No. 3* but with the text of the 1978 revised Rules of Court replacing that of the 1972 amended Rules; it further includes certain resolutions concerning States entitled to appear before the Court. It was published in July 1978 and was available in paper covers.

No. 5 contains the same documents as *No. 4*, with some corrections and an additional resolution concerning a State entitled to appear before the Court. It was published in July 1990, the stock of *No. 4* having been exhausted, and is available in paper covers.

Abbreviated reference: *I.C.J. Acts and Documents*, with an indication of the number of the volume.

(d) *Yearbook*

In the second half of each year there appears a *Yearbook* in which an account is given of the work of the Court during the period from 1 August of the preceding year to 31 July of the current year. There is also a French edition of this publication, the *Annuaire*.

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[1] See Chap. V, pp. 140 and 148, above.

[2] *Ibid.*, pp. 141-142, above.

[3] *Ibid.*, pp. 142-143, above.

The present *Yearbook* is the forty-seventh in the series, which started with *I.C.J. Yearbook 1946-1947*. Like the 28 preceding issues, it is sold in paper covers whereas the first 18 volumes were sold in hard covers.

Abbreviated reference: *I.C.J. Yearbook*, with an indication of the year covered by the volume, e.g.: *I.C.J. Yearbook 1954-1955*.

(e) *Bibliography of the International Court of Justice*

Early each year the Registry issues a *Bibliography* listing such works and documents relating to the Court as have come to its attention during the previous year.

Bibliographies Nos. 1-18 formed Chapter IX in the appropriate *Yearbook* or *Annuaire* up to the 1963-1964 editions. Beginning with No. 19, later *Bibliographies* were issued as separate fascicles with introduction and index in both English and French, but arranged so as to facilitate the binding of several numbers together. The latest *I.C.J. Bibliography* published is No. 46 (year 1992).

Abbreviated reference: *I.C.J. Bibliography*, with the serial number of the volume, followed, if desired, by the entry number of the work cited. E.g.: *I.C.J. Bibliography No. 7:* 2528 for the *Bibliographies* prior to No. 35, and *I.C.J. Bibliography No. 35:* 81: 150 as from 1981.

2. *Dissemination of the Publications of the International Court of Justice*

The publications of the Court are distributed free on request and as required to the governments or public services of all States entitled to appear before the Court.

They may be consulted in major law libraries, including many university libraries, certain depository libraries for United Nations publications, and libraries aided by the United Nations programme of assistance in the teaching, study, dissemination and wider appreciation of international law.

They are sold by the Sales Sections of the United Nations Secretariat: Distribution and Sales Section, Office of the United Nations, 1211 Geneva 10, Switzerland, or the Sales Section, United Nations, New York, NY 10017, USA, and may also be obtained from any bookseller selling United Nations publications. *Orders and requests for information should be sent to these addresses and not to the Registry.*

A *Catalogue* is issued in English and French. It lists the sales number of each publication and its price in US dollars. It is brought up to date each year, by means either of an addendum or of a new edition. A free copy of the *Catalogue* may be obtained by applying to one of the Sales Sections of the United Nations or to the Registry.

3. *Publications of the Permanent Court of International Justice*

Between 1922 and 1946 the *Permanent Court of International Justice* published the following series:

Series A (Nos. 1-24): *Collection of Judgments* (up to and including 1930)

Series B (Nos. 1-18): *Collection of Advisory Opinions* (up to and including 1930)

Series A/B (Nos. 40-80): *Judgments, Orders and Advisory Opinions* (beginning in 1931)

Series C (Nos. 1-19): *Acts and Documents relating to Judgments and Advisory Opinions given by the Court* (up to and including 1930)

Series C (Nos. 52-88): *Pleadings, Oral Statements and Documents* (beginning in 1931)

Series D (Nos. 1-6): *Acts and Documents concerning the Organization of the Court*

Series E (Nos. 1-16): *Annual Reports*

Series F (Nos. 1-4): *General Indexes*

They may be consulted in certain university and other libraries with a substantial legal section.

They can also be obtained from Kraus Reprint Company, Kraus Organization Limited, Route 100, Millwood, NY 10546, USA, to whom all orders and requests for information should be addressed.

II. OFFICIAL CITATION OF JUDGMENTS, ADVISORY OPINIONS AND ORDERS

In order to standardize the mode of citation of the decisions of the International Court of Justice and the *Permanent Court of International Justice*, the Court decided to use the titles below, which are listed in chronological order.

Orders solely fixing or extending time-limits are omitted.

1. Permanent Court of International Justice

1922

Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference, Advisory Opinion, 1922, P.C.I.J., Series B, No. 1.

Competence of the ILO in Regard to International Regulation of the Conditions of Labour of Persons Employed in Agriculture, Advisory Opinion, 1922, P.C.I.J., Series B, No. 2.

Competence of the ILO to Examine Proposals for the Organization and Development of the Methods of Agricultural Production, Advisory Opinion, 1922, P.C.I.J., Series B, No. 3.

1923

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Border and Transborder Armed Actions (Nicaragua v. *Honduras), Order of 27 May 1992, I.C.J. Reports 1992*, p. 222.

Certain Phosphate Lands in Nauru (Nauru v. *Australia), Preliminary Objections, Judgment, I.C.J. Reports 1992*, p. 240.

Passage through the Great Belt (Finland v. *Denmark), Order of 10 September 1992, I.C.J. Reports 1992*, p. 348.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening), Judgment, I.C.J. Reports 1992, p. 351.

1993

Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Provisional Measures, Order of 8 April 1993, I.C.J. Reports 1993, p. 3.

Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgment, I.C.J. Reports 1993, p. 38.

Certain Phosphate Lands in Nauru (Nauru v. *Australia), Order of 25 June 1993, I.C.J. Reports 1993*, p. 316.

III. ABBREVIATED REFERENCES TO PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

In order to standardize the abbreviated references to the *Pleadings, Oral Arguments, Documents* series of the International Court of Justice and the corresponding volumes *(Series C)* of the *Permanent Court of International Justice*, the Court decided to use the titles below, which are given in chronological order based on the date of entry of the case in the General List.

For the convenience of the reader, the names of the Parties in contentious cases (separated by a stroke if proceedings were instituted by means of a special agreement), or the name of the body which requested the advisory opinion, have been added in small type to the abbreviated references.

An asterisk indicates that a case was removed from the list before a final judgment or an advisory opinion was given, or if it failed for some other reason to reach its normal conclusion.

1. Permanent Court of International Justice

1922

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L of N Council

Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference, P.C.I.J., Series C, No. 1.

L of N Council

Competence of the ILO to Examine Proposals for the Organization and Development of the Methods of Agricultural Production, P.C.I.J., Series C, No. 1.

L of N Council

Nationality Decrees Issued in Tunis and Morocco, P.C.I.J., Series C, No. 2 (and additional volume).

L of N Council

1923

S.S. "Wimbledon", P.C.I.J., Series C, No. 3, Vols. I and II (and additional volume).

France, Italy, Japan, United Kingdom *v.* Germany

German Settlers in Poland, P.C.I.J., Series C, No. 3, Vols. I, III (1) and III (2).

L of N Council

Status of Eastern Carelia, P.C.I.J., Series C, No. 3, Vols. I and II.

L of N Council

Acquisition of Polish Nationality, P.C.I.J., Series C, No. 3, Vols. I, III (1) and III (2).

L of N Council

Jaworzina, P.C.I.J., Series C, No. 4.

L of N Council

1924

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Greece *v.* United Kingdom

Treaty of Neuilly, Article 179, Annex, Paragraph 4 (Interpretation), P.C.I.J., Series C, No. 6 (and additional volume).

Bulgaria/Greece

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L of N Council

Exchange of Greek and Turkish Populations, P.C.I.J., Series C, No. 7, Vol. I.

L of N Council

1925

Polish Postal Service in Danzig, P.C.I.J., Series C, No. 8.

L of N Council

**Expulsion of the Oecumenical Patriarch, P.C.I.J., Series C, No. 9 (II).*

L of N Council

Certain German Interests in Polish Upper Silesia, P.C.I.J., Series C, No. 9 (I); No. 11, Vols. I-III.

Germany *v.* Poland

Interpretation of Article 3, paragraph 2, of the Treaty of Lausanne, P.C.I.J., Series C, No. 10.

L of N Council

1926

Competence of the ILO to Regulate Incidentally the Personal Work of the Employer, P.C.I.J., Series C, No. 12.

L of N Council

**Denunciation of the Treaty of 2 November 1865 between China and Belgium, P.C.I.J., Series C, No. 16 (I).*

Belgium *v.* China

Jurisdiction of the European Commission of the Danube, P.C.I.J., Series C, No. 13 (IV), Vols. I-IV.

L of N Council

1927

"Lotus", P.C.I.J., Series C, No. 13 (II).

France/Turkey

Factory at Chorzów, P.C.I.J., Series C, No. 13 (I); No. 13 (V); No. 15 (II); No. 16 (II).

Germany *v.* Poland

Jurisdiction of the Courts of Danzig, P.C.I.J., Series C, No. 14 (I).

L of N Council

1928

Rights of Minorities in Upper Silesia (Minority Schools), P.C.I.J., Series C, No. 14 (II).

Germany *v.* Poland

Free Zones of Upper Savoy and the District of Gex, P.C.I.J., Series C, No. 17 (I), Vols. I-IV; *No. 19*, Vols. I-V; *No. 58.*

France/Switzerland

Brazilian Loans, P.C.I.J., Series C, No. 16 (IV).

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Serbian Loans, P.C.I.J., Series C, No. 16 (III).

France/Yugoslavia

Interpretation of the Greco-Turkish Agreement of 1 December 1926 (Final Protocol, Article IV), P.C.I.J., Series C, No. 15 (I).

L of N Council

Territorial Jurisdiction of the International Commission of the River Oder, P.C.I.J., Series C, No. 17 (II).

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Germany, Sweden, United Kingdom/Poland

1930

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L of N Council

Free City of Danzig and ILO, P.C.I.J., Series C, No. 18 (II).

L of N Council

1931

Railway Traffic between Lithuania and Poland, P.C.I.J., Series C, No. 54.
L of N Council

Access to German Minority Schools in Upper Silesia, P.C.I.J., Series C, No. 52.
L of N Council

Customs Régime between Germany and Austria, P.C.I.J., Series C, No. 53.
L of N Council

Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory, P.C.I.J., Series C, No. 56.
L of N Council

Legal Status of Eastern Greenland, P.C.I.J., Series C, Nos. 62-67 (and table of contents and maps).
Denmark *v.* Norway

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L of N Council

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L of N Council

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Italy/Turkey

1932

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France, Italy, Japan,
United Kingdom *v.* Lithuania

Interpretation of the Convention of 1919 concerning Employment of Women during the Night, P.C.I.J., Series C, No. 60.
L of N Council

**Prince von Pless Administration, P.C.I.J., Series C, No. 70.*
Germany *v.* Poland

**Appeals from Certain Judgments of the Hungaro/Czechoslovak Mixed Arbitral Tribunal, P.C.I.J., Series C, No. 68.*
Czechoslovakia *v.* Hungary

**Legal Status of the South-Eastern Territory of Greenland, P.C.I.J., Series C, No. 69.*
Norway *v.* Denmark; Denmark *v.* Norway

1933

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Czechoslovakia *v.* Hungary

Lighthouses case between France and Greece, P.C.I.J., Series C, No. 74.
France/Greece

**Polish Agrarian Reform and German Minority, P.C.I.J., Series C, No. 71.*
Germany *v.* Poland

1934

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Belgium/United Kingdom

1935

Minority Schools in Albania, P.C.I.J., Series C, No. 76.
L of N Council

Consistency of Certain Danzig Legislative Decrees with the Constitution of the Free City, P.C.I.J., Series C, No. 77.
L of N Council

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Switzerland *v.* Yugoslavia

1936

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Hungary *v.* Yugoslavia

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France/Greece

1937

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Belgium/Spain

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1938

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Belgium *v.* Bulgaria

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1947

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1948

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UN General Assembly

1949

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**I.C.J. Pleadings, Protection of French Nationals and Protected Persons in Egypt.*
France *v.* Egypt

I.C.J. Pleadings, Asylum, Vols. I-II.
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I.C.J. Pleadings, Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide.
UN General Assembly

I.C.J. Pleadings, Haya de la Torre.
Colombia *v.* Peru

1951

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Greece *v.* United Kingdom

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United Kingdom *v.* Iran

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I.C.J. Pleadings, Nottebohm, Vols. I-II.
Liechtenstein *v.* Guatemala

1953

I.C.J. Pleadings, Monetary Gold Removed from Rome in 1943.
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**I.C.J. Pleadings, Electricité de Beyrouth Company.*
France *v.* Lebanon

I.C.J. Pleadings, Effect of Awards of Compensation Made by the United Nations Administrative Tribunal.
UN General Assembly

1954

**I.C.J. Pleadings, Treatment in Hungary of Aircraft and Crew of United States of America.*
USA *v.* Hungary;
USA *v.* USSR

I.C.J. Pleadings, Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South West Africa.
UN General Assembly

1955

**I.C.J. Pleadings, Aerial Incident of 10 March 1953.*
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**I.C.J. Pleadings, Antarctica.*
United Kingdom *v.* Argentina;
United Kingdom *v.* Chile

**I.C.J. Pleadings, Aerial Incident of 7 October 1952.*
USA *v.* USSR

I.C.J. Pleadings, Certain Norwegian Loans, Vols. I-II.
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I.C.J. Pleadings, Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco.
Unesco Executive Board

I.C.J. Pleadings, Admissibility of Hearings of Petitioners by the Committee on South West Africa.
UN General Assembly

I.C.J. Pleadings, Right of Passage over Indian Territory, Vols. I-V.
Portugal *v.* India

1957

I.C.J. Pleadings, Application of the Convention of 1902 Governing the Guardianship of Infants.
Netherlands *v.* Sweden

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Switzerland *v.* USA

I.C.J. Pleadings, Aerial Incident of 27 July 1955.
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*USA *v.* Bulgaria;
*United Kingdom *v.* Bulgaria

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Belgium/Netherlands

1958

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Honduras *v.* Nicaragua

**I.C.J. Pleadings, Aerial Incident of 4 September 1954.*
USA *v.* USSR

**I.C.J. Pleadings, Barcelona Traction, Light and Power Company, Limited.*
Belgium *v.* Spain

1959

**I.C.J. Pleadings, Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient.*
France *v.* Lebanon

I.C.J. Pleadings, Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization.
IMCO Assembly

**I.C.J. Pleadings, Aerial Incident of 7 November 1954.*
USA *v.* USSR

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1960

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1961

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UN General Assembly

1962

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1967

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1970

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UN Security Council

1971

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1972

I.C.J. Pleadings, Fisheries Jurisdiction, Vols. I-II.

United Kingdom *v.* Iceland;
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[1] In this case, annexes to written pleadings, and documents submitted after the closure of the written proceedings, were not reproduced. Sets of these texts were, however, deposited in a number of public libraries, a list of which is given in the introductory pages of Volume X.

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Committee on Applications
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1973

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1975

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1976

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1978

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1979

I.C.J. Pleadings, United States Diplomatic and Consular Staff in Tehran.

USA *v.* Iran

1980

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1981

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Committee on Applications
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1982

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1983

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1984

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Tunisia *v.* Libyan Arab Jamahiriya

I.C.J. Pleadings, Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal.

Committee on Applications
for Review of UNAT Judgements

1986

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Nicaragua *v.* Costa Rica

**I.C.J. Pleadings, Border and Transborder Armed Actions (Nicaragua v. Honduras)* (not yet published).

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El Salvador/Honduras

1987

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USA *v.* Italy

1988

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UN General Assembly

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1989

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I.C.J. Pleadings, Arbitral Award of 31 July 1989 (not yet published).

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Finland *v.* Denmark

CHAPTER VIII

FINANCES OF THE COURT

I. Financial Regulations

In regard to financial matters, the International Court of Justice applies Articles 32, 33, 35 and 64 of the Statute of the Court, Article 26, paragraph 1 *(j)*, of the Rules of Court, the Staff Regulations for the Registry and the relevant resolutions of the General Assembly of the United Nations.

1. General Regulations

(a) *Method of covering expenditure*

Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute (see Chap. III, pp. 59-60, above), a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them. By its resolution 46/221 of 20 December 1991, the General Assembly decided that these States should contribute to the expenses of the Court for the years 1992, 1993 and 1994 in the following proportions: Nauru 0.01%; San Marino 0.01%; Switzerland 1.16%.

If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations in New York.

The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization.

Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat – see Chap. VII, p. 256, above), bank interest, etc., are also recorded as United Nations income.

(b) *Drafting of the budget*

In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. If the Court is sitting, this preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself. If the Court is not sitting, approval must be given by the President.

When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations and its unforeseen and extraordinary expenses.

Since 1974 the budget has been presented biennially.

(c) *Financing of appropriations and accounts*

The Registrar is responsible for executing the budget, with the assistance of the Accountant Establishment Officer. He has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget (Instructions for the Registry, Art. 31). He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority (Instructions for the Registry, Art. 35).

The accounts of the Court are audited every year by the auditors of the Secretariat of the United Nations and by the Board of Auditors appointed by the General Assembly. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations (Instructions for the Registry, Art. 34).

2. *Salaries and Expenses of Judges*

(a) *Emoluments*

By virtue of Article 32, paragraph 5, of the Statute, the salaries, allowances and compensation paid to the judges are fixed by the General Assembly. In this connection, the General Assembly adopted resolution 19 (I) of 6 February 1946, resolution 85 (I) of 11 December 1946, resolution 474 (V) of 15 December 1950, resolution 1738 (XVI) of 20 December 1961, resolution 2366 (XXII) of 19 December 1967, resolution 2890 B (XXVI) of 22 December 1971, resolution 3193 B (XXVIII) of 18 December 1973, resolution 3537 B (XXX) of 17 December 1975, resolution 31/204 of 22 December 1976, resolution 35/220 A of 17 December 1980, resolution 40/257 of 18 December 1985 and resolution 45/250 of 21 December 1990.

The emoluments of Members of the Court are made up of an annual salary which may not be decreased during the period of office (Statute of the Court, Art. 32, paras. 1 and 5). With effect from 1 January 1991, the General Assembly (resolution 45/250) has fixed the emoluments of Members of the Court at US$145,000. The General Assembly further decided that the emoluments and other conditions of service shall be reviewed every three years with the next review at its forty-eighth session.

Under Article 32, paragraphs 2 and 3, of the Statute, the President of the Court and the Vice-President (for every day on which he acts as President) receive special allowances in addition, at a rate fixed by resolution 40/257 of 18 December 1985.

Finally, under Article 32, paragraph 4, of the Statute and General Assembly resolution 19 (I) of 6 February 1946, judges *ad hoc* chosen to sit in certain cases under Article 31 of the Statute receive daily fees. With effect from 1 January 1991, the daily fee of *ad hoc* judges has been fixed at US$397, being 1/365th of US$145,000.

The emoluments of the judges are thus as set out on the following scale:

	US$
President	
Annual salary	145,000
Special allowance	15,000
Vice-President	
Annual salary	145,000
Allowance equivalent to US$94 for every day on which he acts as President, up to an annual maximum of	9,400
Other Members	
Annual salary	145,000
Judges ad hoc	
Fee of US$397 for each day on which they exercise their functions	

(b) *Pensions*

Article 32, paragraph 7, of the Statute provides: "Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to Members of the Court." The General Assembly adopted the Pension Scheme Regulations for Members of the International Court of Justice which appear as an annex to resolution 86 (I) of 11 December 1946. Amendments to these regulations were made by resolution 1408 (XIV) of 1 December 1959. The General Assembly adopted new regulations by its resolution 1562 (XV) of 18 December 1960. Some provisions of the regulations were modified by resolution 1925 (XVIII) of 11 December 1963, resolution 2367 (XXII) of 19 December 1967, resolution 2890 A (XXVI) of 22 December 1971, resolution 3193 A (XXVIII) of 18 December 1973, resolution 3537 A (XXX) of 17 December 1975, resolution 35/220 B of 17 December 1980. The General Assembly effected further modifications by resolution 38/239 of 20 December 1983, resolution 40/257 of 18 December 1985 and resolution 45/250 of 21 December 1990.

According to the regulations which came into operation on 1 January 1984, any Member of the Court who has ceased to hold office and who has reached the age of 60 years is entitled, if he has completed at least three years of service, to a retirement pension during the remainder of his life.

With effect from 1 January 1991 (resolution 45/250), if a Member of the Court has served a full term of nine years, the amount of the annual pension is US$50,000. If he has served for more than nine years, the amount of the pension is increased up to a maximum of US$75,000. It is reduced if he has served for less than nine years.

Furthermore, a Member of the Court who ceases to hold office before the age of 60 and who would be entitled to a retirement pension when he reached that age, may elect to receive a pension from any date after the date on which he ceases to hold office. The amount of such pension would be that amount which has the same actuarial value as the pension which would have been paid to him at the age of 60.

Provision is made also for disability pensions and pensions for widows and children.

By its resolution 31/204 of 22 December 1976, the General Assembly decided that the retirement pensions given to Members of the Court should be reviewed concurrently with the periodic revision of their annual salary.

(c) *Conditions of service*

In Section C of resolution 40/257 of 18 December 1985, the General Assembly laid down certain conditions of service applicable to Members of the Court. The text of the relevant portion of this resolution is as follows:

> "*The General Assembly*,
>
> *Recalling* its resolutions 37/237, section XIV, of 21 December 1982, 38/234, section XVII, of 20 December 1983, and 39/236, section V, of 18 December 1984, on conditions of service and compensation for officials other than Secretariat officials,
>
> *Having considered* the report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions,
>
> 1. *Decides* that, with effect from 1 January 1986, the President and members of the Court who have taken up primary residence in The Hague, shall be reimbursed, up to a ceiling of $4,500, for the actual cost of educating their children in respect of each child each year up to the award of the first recognized degree and that provision shall be made for one related travel per year in respect of each child from the place of scholastic attendance, when outside the Netherlands, to The Hague;

2. *Decides* that, with effect from 1 January 1986, those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for at least five continuous years during service with the Court, shall be eligible to receive a lump sum equivalent to eighteen weeks of annual net base salary upon completion of their appointment and resettlement outside the Netherlands, and that those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for nine continuous years or more during service with the Court, shall receive the equivalent of twenty-four weeks of annual net base salary upon completion of service and relocation outside the Netherlands;

3. *Decides* that, with effect from 1 January 1986, in the event of the death of a member of the Court during his service, compensation shall be provided to the survivors in the form of a lump-sum payment equivalent to one month of base salary per year of service, subject to a minimum of three months and a maximum of nine months."

With effect from 1 January 1991, the ceiling for reimbursement for the actual cost of education, referred to in paragraph 1 of the above resolution, was fixed at US$6,750.

(d) *Travelling expenses*

By virtue of Article 32, paragraph 7, of the Statute, regulations made by the General Assembly fix the conditions under which Members of the Court have their travelling expenses refunded. The General Assembly adopted the Travel and Subsistence Regulations of the International Court of Justice which appear in the annex to resolution 85 (I) of 11 December 1946. On 21 December 1982, by resolution 37/240, it adopted new Travel and Subsistence Regulations of the International Court of Justice (set out in *I.C.J. Yearbook 1982-1983*, pp. 164-167).

3. Salaries, Allowances and Expenses of the Registrar and Officials of the Registry

(a) *Emoluments*

By virtue of Article 32, paragraph 6, of the Statute, the salary of the Registrar is fixed by the General Assembly on the proposal of the Court. By resolution 85 (I) of 11 December 1946 confirmed by resolution 474 (V) of 15 December 1950, the General Assembly decided that "the annual salary of the Registrar of the International Court of Justice shall be assimilated to that of a top-ranking director of the Secretariat of the United Nations". In the existing structure, the Registrar has the rank of an Assistant Secretary-General and the Deputy-Registrar that of a Director.

Officials of the Registry in the professional category, both permanent and temporary, receive the same salary and the same allowances as officials of the United Nations belonging to the same category.

For the purposes of the schedule of post adjustments applicable to the permanent staff of the professional category, The Hague was in Class 6/+0.2 as from 1 July 1993. For temporary staff of the professional category, the subsistence allowance is fixed at 394 guilders a day.

Salaries and allowances of permanent and temporary staff members in the general service category are based on the best prevailing local rates.

The figures given in the budget estimates and accounts in respect of salaries are net figures, after deduction of staff assessment.

(b) *Pensions*

By virtue of Article 12 of the Staff Regulations for the Registry, the Registrar and the officials of the Registry are participants in the United Nations Joint Staff Pension Fund. They participate on the same conditions as all other officials of the United Nations.

(c) *Travelling expenses*

Under Article 5 of the regulations concerning the travel and subsistence allowances of the Members of the International Court of Justice, dated 21 December 1982 (*I.C.J. Yearbook 1982-1983*, p. 167), the travel and subsistence provisions applicable to the Registrar of the Court are as set out in the Staff Regulations of the United Nations for officials of comparable rank, subject to any exceptions authorized by the President of the Court.

The travelling expenses of officials of the Registry are paid under conditions similar to those applied in the Secretariat of the United Nations (Staff Regulations for the Registry, Art. 12).

4. Common Services

The common services of the Court and of the Registry and the capital expenditure of the Court come under special items in the budget.

In particular, the Court pays to the Carnegie Foundation an annual contribution for the premises it occupies at the Peace Palace and in the new wing (see Chap. V, p. 132, above). The amount of the contribution was first fixed by the General Assembly in resolution 84 (I) of 11 December 1946 and has subsequently undergone successive alterations. It was increased to 1,009,400 guilders as from 1 January 1992 and to 1,039,600 guilders as from 1 January 1993.

II. BUDGET FOR THE BIENNIUM 1992-1993

1. Ordinary Expenses

The Budget of the Court for the biennium 1992-1993, which forms Part V, Section 8, of the Budget of the United Nations, was adopted by the General Assembly on 20 December 1991 (resolution 46/186).

	US$	US$
PROGRAMME UN-N-8-181. MEMBERS OF THE COURT		
Salaries and allowances	4,329,200	
Pensions	1,647,100	
Travelling expenses	504,200	
Education grants	156,300	
		6,636,800
PROGRAMME UN-N-8-182. THE REGISTRY		
Salaries – established posts	5,077,000	
Common staff costs	1,411,100	
Salaries and travel costs of temporary assistance	1,422,000	
Consultants	79,800	
Travelling on official business	53,300	
Overtime	70,300	
Representation allowance	7,200	
Hospitality	6,700	
		8,127,400
PROGRAMME UN-N-8-800. COMMON SERVICES		
Contribution to the Carnegie Foundation	1,217,600	
General operating expenses	373,500	
Contractual printing	410,200	
Data processing services	21,000	
Supplies and materials	147,800	
Library	103,500	
Furniture and equipment	130,100	
Miscellaneous expenses	22,400	
Acquisition replacement office automation equipment	293,700	
		2,719,800
		17,484,000

2. *Unforeseen and Extraordinary Expenses*

On 20 December 1991 the General Assembly, in accordance with previous practice, adopted resolution 46/187, containing the following provisions:

> "*The General Assembly*
>
> 1. *Authorizes* the Secretary-General, with the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions and subject to the Financial Regulations of the United Nations and the provisions of paragraph 3 below, to enter into commitments in the biennium 1992-1993 to meet unforeseen and extraordinary expenses arising either during or subsequent to that biennium, provided that the concurrence of the Advisory Committee shall not be necessary for:
>
> . . . .
>
> (*b*) Such commitments as the President of the International Court of Justice certifies relate to expenses occasioned by:
>
> (i) The designation of *ad hoc* judges (Statute of the Court, Article 31), not exceeding a total of $250,000;

(ii) The appointment of assessors (Statute, Article 30), or the calling of witnesses and the appointment of experts (Statute, Article 50), not exceeding a total of $75,000;

(iii) The holding of sessions of the Court away from The Hague (Statute, Article 22), not exceeding a total of $100,000."

3. Audit of Accounts

The accounts were audited by the competent authorities from 9 to 13 March 1992 and from 22 February to 5 March 1993.

The publications of the INTERNATIONAL COURT OF JUSTICE may be ordered from any bookseller. For information regarding the sale of the Court's publications please write to the *Distribution and Sales Section, Office of the United Nations, 1211 Geneva 10 (Switzerland)*, or the *Sales Section, United Nations, New York, NY 10017 (USA)*.

The publications of the PERMANENT COURT OF INTERNATIONAL JUSTICE (1920-1946) are obtainable from Kraus Reprint Company, Kraus Organization Limited, Route 100, Millwood, NY 10546, USA, to which all requests should be addressed.

All enquiries other than with regard to purchase of publications should be addressed to the *Registrar of the International Court of Justice, Peace Palace, 2517 KJ The Hague, Netherlands* (telephone: 302 23 23).

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